

1937

## c 256 Insurance Act

Ontario

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## CHAPTER 256.

## The Insurance Act.

## INTERPRETATION.

Interpreta-  
tion.

1. In this Act, except where inconsistent with the interpretation sections of any Part,—1934, c. 22, s. 2, *part*.

"Accident  
insurance."

1. "Accident insurance" means insurance by which the insurer undertakes, otherwise than incidentally to some other class of insurance defined by or under this Act, to pay insurance money in the event of accident to the person or persons insured, but does not include insurance by which the insurer undertakes to pay insurance money both in the event of death by accident and in the event of death from any other cause;

"Adjuster."

2. "Adjuster" means a person who, for compensation, not being a barrister or solicitor acting in the usual course of his profession or not being a trustee or an agent of the property insured, directly or indirectly solicits the right to negotiate the settlement of a loss, or holds himself out as an adjuster of losses, under fire or automobile insurance policies on behalf of the insurer or under fire insurance policies on behalf of the insured; 1935, c. 30, s. 2, *part*.

"Agent."

3. "Agent" means a person who, for compensation, not being a duly licensed insurance broker or not being a person acting under the authority of subsection 15 or 16 of section 281, solicits insurance on behalf of any insurer or transmits, for a person other than himself, an application for or a policy of insurance to or from such insurer or offers or assumes to act in the negotiation of such insurance or in negotiating its continuance or renewal;

"Aircraft  
insurance."

4. "Aircraft insurance" means insurance against loss of or damage to an aircraft and against liability for loss or damage to persons or property caused by an aircraft or by the operation thereof;



5. "Appeal" includes a judicial revision or review of a judgment, decision, order, direction, determination, finding or conviction, and a case stated or reserved, and a removal of proceedings by way of *certiorari* or otherwise;
6. "Automobile" includes all self-propelled vehicles, their trailers, accessories and equipment, but not railway rolling stock, watercraft or aircraft of any kind; "Auto-mobile."
7. "Automobile insurance" means insurance against liability for loss or damage to persons or property caused by an automobile or the use or operation thereof, and against loss of or damage to an automobile; "Automobile insurance."
8. "Beneficiary" means a person designated or appointed as one to whom or for whose benefit insurance money is to be payable; "Beneficiary."
9. "Boiler and machinery insurance" means insurance against loss or damage to property and against liability for loss or damage to persons or property through the explosion, collapse, rupture or breakdown of, or accident to, boilers or machinery of any kind; "Boiler and machinery insurance."
10. "Broker" means a person who, for compensation, not being a licensed agent or not being a person acting under the authority of subsection 15 or 16 of section 281, acts or aids in any manner in negotiating contracts of insurance or placing risks or effecting insurance, or in negotiating the continuance or renewal of such contracts for a person other than himself; "Broker."
11. "Cash-mutual corporation" means a corporation without share capital or with guarantee capital stock subject to repayment by the corporation, in respect of which the dividend rate is limited by its Act or instrument of incorporation, which is empowered to undertake insurance on both the cash plan and the mutual plan; "Cash-mutual corporation."
12. "Chief agency" means the principal office or place of business in Ontario of any licensed insurer having its head office out of Ontario; "Chief agency."
13. "Contract" means a contract of insurance and includes a policy, certificate, interim receipt, renewal receipt, or writing evidencing the contract, whether sealed or not, and a binding oral agreement; "Contract."

"Credit insurance."

14. "Credit insurance" means insurance against loss to the insured through the insolvency or default of a person to whom credit is given in respect of goods, wares or merchandise;

"Department."

15. "Department" means the Department of Insurance of Ontario;

"Disability insurance."

16. "Disability insurance" means insurance undertaken by an insurer as part of a life insurance contract whereby the terms of the policy provide for the duration of such insurance for more than one year and for the payment of insurance money or the granting of benefits in the event that the insured becomes disabled as a result of bodily injury or disease;

"Double indemnity insurance."

17. "Double indemnity insurance" means insurance undertaken by an insurer as part of a life insurance contract whereby the terms of the policy provide for the duration of such insurance for more than one year and for payment only in the event of the death of the insured by accident of an additional amount of insurance money not exceeding the amount payable in the event of death from other causes;

"Due application."

18. "Due application" includes such information, evidence and material as the Superintendent requires to be furnished, and also the payment of the fees hereinafter prescribed in respect of any application, certificate or document required or issued by virtue of this Act;

"Employers' liability insurance."

19. "Employers' liability insurance" means insurance (not being insurance incidental to some other class of insurance defined by or under this Act) against loss to an employer through liability for accidental injury to or death of an employee arising out of or in the course of his employment, but does not include workmen's compensation insurance;

"Endowment insurance."

20. "Endowment insurance" as applied to a fraternal society means an undertaking to pay an ascertained or ascertainable sum at a fixed future date, if the person whose life is insured is then alive, or at his death, if he dies before such date;

"Exchange" or "reciprocal or inter-insurance exchange."

21. "Exchange" or "reciprocal or inter-insurance exchange" means a group of subscribers exchanging reciprocal contracts of indemnity or inter-insurance with each other through the same attorney;

22. "Foreign jurisdiction" includes any jurisdiction other than Ontario; "Foreign jurisdiction."
23. "Fire insurance" means insurance (not being insurance incidental to some other class of insurance defined by or under this Act) against loss of or damage to property through fire, lightning or explosion due to ignition; 1934, c. 22, s. 2, *part*. "Fire insurance."
24. "Fraternal society" means a society, order or association incorporated for the purpose of making with its members only and not for profit, contracts of life insurance under which benefits may be paid only to its members or their beneficiaries, in accordance with its constitution and laws and the provisions of this Act; 1935, c. 30, s. 2, *part*. "Fraternal society."
25. "Governing executive authority" means the executive committee, executive board, management committee, grand executive committee or such other board, committee or body as is charged under the constitution and rules of a fraternal society with its general management between general meetings; "Governing executive authority."
26. "Guarantee insurance" means the undertaking to perform an agreement or contract or to discharge a trust, duty or obligation upon default of the person liable for such performance or discharge or to pay money upon such default or in lieu of such performance or discharge, or where there is loss or damage through such default and includes insurance against loss or liability for loss due to the invalidity of the title to any property or of any instrument or to any defect in such title or instrument, but does not include credit insurance; "Guarantee insurance."
27. "Hail insurance" means insurance against loss of or damage to growing crops caused by hail; "Hail insurance."
28. "Head office" means the place where the chief executive officer of an insurer transacts his business; "Head office."
29. "Industrial contract" means a contract of life insurance for an amount not exceeding \$2,000, exclusive of any benefit, surplus, profit, dividend or bonus also payable under the contract, and which provides for payment of premiums at fortnightly or shorter intervals, or, if the premiums are usually collected at the home of the insured, at monthly intervals; 1934, c. 22, s. 2, *part*. "Industrial contract."



"Inland transportation insurance."

30. "Inland transportation insurance" means insurance (other than marine insurance) against loss of or damage to property,—

(a) while in transit or during delay incidental to transit; or

(b) where, in the opinion of the Superintendent, the risk is substantially a transit risk; 1935, c. 30, s. 2, *part*.

"Insurance."

31. "Insurance" means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event;

"Insurance fund" or "insurance funds."

32. "Insurance fund" or "insurance funds," as applied to a fraternal society or as applied to any corporation not incorporated exclusively for the transaction of insurance, includes all money, securities for money and assets appropriated by the rules of the society or corporation to the payment of insurance liabilities or appropriated for the management of the insurance branch or department or division of the society, or otherwise legally available for insurance liabilities, but does not include funds of a trade union appropriated to or applicable for the voluntary assistance of wage earners unemployed or upon strike;

"Insurance money."

33. "Insurance money" means the amount payable by an insurer under a contract, and includes all benefits, surplus, profits, dividends, bonuses, and annuities payable under the contract;

"Insurance on the cash plan."

34. "Insurance on the cash plan" means and includes any insurance which is not mutual insurance;

"Insurer."

35. "Insurer" means the person who undertakes or agrees or offers to undertake a contract;

"Life insurance."

36. "Life insurance" means insurance whereby the insurer undertakes to pay insurance money on death, or on the happening of any contingency dependent on human life, or whereby the insurer undertakes to pay insurance money subject to the payment of premiums for a term depending on human life, but, except to the extent of double indemnity insurance, does not include insurance payable in the event of death by accident only;

37. "Live stock insurance" means insurance (not being insurance incidental to some other class of insurance defined by or under this Act) against loss through the death or sickness of or accident to an animal; "Live stock insurance."
38. "Lodge" includes a primary subordinate division by whatever name known, of a fraternal society; "Lodge."
39. "Marine insurance" means insurance against marine losses; that is to say, the losses incident to marine adventure, and may by the express terms of a contract or by usage of trade extend so as to protect the insured against losses on inland waters or by land or air which are incidental to any sea voyage; "Marine insurance."
40. "Minister" means that member of the Executive Council charged for the time being by the Lieutenant-Governor in Council with the administration of this Act; "Minister."
41. "Mutual benefit society" means a mutual corporation formed for the purpose of providing sick and funeral benefits for its members, or for this and any other purposes necessary or incidental thereto except life insurance, but does not include a pension fund or employees' mutual benefit society incorporated under or subject to the provision of *The Companies Act*; "Mutual benefit society."  
Rev. Stat.  
c. 251.
42. "Mutual corporation" means a corporation without share capital or with guarantee capital stock subject to repayment by the corporation, in respect of which the dividend rate is limited by its Act or instrument of incorporation, which is empowered to undertake mutual insurance exclusively; "Mutual corporation."
43. "Mutual insurance" means a contract of insurance in which the consideration is not fixed or certain at the time the contract is made and is to be determined at the termination of the contract or at fixed periods during the term of the contract according to the experience of the insurer in respect of all similar contracts whether or not the maximum amount of such consideration is predetermined; "Mutual insurance."
44. "Officer" includes any trustee, director, manager, treasurer, secretary or member of the board or committee of management of an insurer or any person appointed by the insurer to sue and be sued in its behalf; "Officer."

- "Paid in." 45. "Paid in" when applied to the capital stock of an insurer or to any shares thereof, means the amount paid to the insurer on its shares, not including the premium, if any, paid thereon, whether such shares are or are not fully paid;
- "Paid up." 46. "Paid up" when applied to the capital stock of an insurer or to any shares thereof, means capital stock or shares on which there remains no liability, actual or contingent, to the issuing insurer;
- "Pension fund association." 47. "Pension fund association" means a company, corporation or association incorporated prior to the year 1910, under or by virtue of any law of the Province of Quebec, for the purpose of providing a pension for those persons who have contributed to a fund therefor during a certain number of years, and includes any auxiliary funds incorporated for the purpose of guaranteeing the repayment of any sum to those who contributed to such pension fund during a certain number of years, or for the purpose of assuring a life pension to those contributing a sum of money to such pension fund, or for these and similar purposes;
- "Plate glass insurance." 48. "Plate glass insurance" means insurance (not being insurance incidental to some other class of insurance defined by or under this Act) against loss of or damage to plate, sheet or window glass, whether in place or in transit;
- "Policy." 49. "Policy" means the instrument evidencing a contract;
- "Premium." 50. "Premium" means the single or periodical payment under a contract for the insurance, and includes dues, assessments, and other considerations;
- "Premium note." 51. "Premium note" means an instrument given as consideration for insurance whereby the maker undertakes to pay such sum or sums as may be legally demanded by the insurer, but the aggregate of which sums does not exceed an amount specified in the instrument;
- "Property." 52. "Property" includes profits, earnings and other pecuniary interests, and expenditure for rents, interest, taxes and other outgoings and charges and in respect of inability to occupy the insured premises, but only to the extent of express provision in the contract;



53. "Property damage insurance" means insurance against loss of or damage to property which is not included in or incidental to some other class of insurance defined by or under this Act; "Property damage insurance."
54. "Public liability insurance" means insurance against loss or damage to the person or property of others which is not included in or incidental to some other class of insurance defined by or under this Act; "Public liability insurance."
55. "Regulations" means regulations made under the authority of this Act; "Regulations."
56. "Sick and funeral benefits" includes insurance against sickness, disability or death under which the moneys payable upon the happening of sickness, disability or death do not exceed the limits prescribed by section 260; "Sick and funeral benefits."
57. "Sickness insurance" means insurance by which the insurer undertakes to pay insurance money in the event of sickness of the person or persons insured, but does not include disability insurance; "Sickness insurance."
58. "Sprinkler leakage insurance" means insurance against loss of or damage to property through the breakage or leakage of sprinkler equipment or other fire protection system, or of pumps, water pipes or plumbing and its fixtures; "Sprinkler leakage insurance."
59. "Superintendent" means the Superintendent of Insurance and includes the Deputy Superintendent of Insurance; "Superintendent."
60. "Theft insurance" means insurance against loss or damage through theft, wrongful conversion, burglary, house-breaking, robbery or forgery; "Theft insurance."
61. "Upon proof" as applied to any matter connected with the licensing of an insurer or other person means upon proof to the satisfaction of the Superintendent; "Upon proof."
62. "Weather insurance" means insurance against loss or damage through windstorm, cyclone, tornado, rain, hail, flood, or frost, but does not include hail insurance; "Weather insurance."
63. "Workmen's compensation insurance" means insurance of an employer against the cost of compensation prescribed by statute for bodily injury, disability or death of a workman through accident or disease arising out of or in the course of his employment. 1934, c. 22, s. 2, *part.* "Workmen's compensation insurance."



## PART I.

## SUPERINTENDENT AND HIS DUTIES.

The Department of Insurance.

2. There shall continue to be a Department of Insurance and the same shall be presided over by the Minister. R.S.O. 1927, c. 222, s. 2.

Appointment of Superintendent.

3.—(1) There shall continue to be a Superintendent of Insurance who shall be appointed by the Lieutenant-Governor in Council and be the deputy head of the Department.

His duties,—report to Minister.

(2) The Superintendent shall have general supervision of the business of insurance within Ontario and he shall see that the laws, relating to the conduct thereof, are enforced and obeyed, and shall examine and report to the Minister from time to time upon all matters connected with insurance.

Deputy Superintendent.

(3) The Lieutenant-Governor in Council may also appoint an officer to be called the Deputy Superintendent of Insurance who shall act as superintendent during the absence or inability of the Superintendent and shall perform such other duties as are assigned to him by this Act, by the Lieutenant-Governor in Council, by the Minister, or by the Superintendent. R.S.O. 1927, c. 222, s. 3.

Evidence.

4. For the purposes of his duties and in the exercise of his powers under this Act or under any other Act relating to insurance, the Superintendent may require to be made and may take and receive affidavits, statutory declarations and depositions, and may examine witnesses upon oath, and he shall have the same power to summon persons to attend as witnesses, and to enforce their attendance, and to compel them to produce books, documents and things, and to give evidence as any court has in civil cases. R.S.O. 1927, c. 222, s. 4.

Oaths.

5. An oath required by this Act to be taken may be administered and certified to by the Superintendent or by any person authorized to administer oaths in Ontario. R.S.O. 1927, c. 222, s. 5.

Independence of Superintendent and officers.

6. Neither the Superintendent nor any officer under him shall be interested as a shareholder, directly or indirectly, in any insurance company doing business in Ontario. R.S.O. 1927, c. 222, s. 6.

Actions against Superintendent.

7.—(1) Without a fiat of the Attorney-General, no action or proceeding shall be brought or taken against the Superintendent for anything done or omitted in the performance or

intended or supposed performance of his duty under this Act, or under any other Act which imposes duties upon him.

(2) The Superintendent may bring actions and institute proceedings in his name of office for the enforcement of any of the provisions of this Act or for the recovery of fees and penalties payable hereunder. R.S.O. 1927, c. 222, s. 7 (1, 2). Superintendent may bring actions, etc.

(3) No action or proceeding for the recovery of fees and penalties payable hereunder shall be commenced without the leave of the Superintendent. 1929, c. 53, s. 3. Leave.

8.—(1) The Superintendent shall keep in the Department the following books, and records: Records of Superintendent.

- (a) A register of all licenses issued pursuant to this Act, in which shall appear the name of the insurer, the address of the head office, the address of the principal office in Canada, the name and address of the chief or general agent in Ontario, the number of the license issued, particulars of the classes of insurance for which the insurer is licensed, and such other information as the Superintendent deems necessary. License register.
- (b) A record of all securities deposited by each insurer with the Minister, naming in detail the several securities, their par value, their date of maturity and value at which they are received as deposit. Securities record.
- (c) A record of all claims of which notice of dispute has been filed pursuant to the provisions of this Act. Claims record.

(2) The books and records required by this section to be kept in the Department shall be open to inspection at such time and upon payment of such fees as may be prescribed by the regulations. R.S.O. 1927, c. 222, s. 8. Inspection.

9.—(1) The Superintendent shall cause to be published in the *Ontario Gazette* in July of each year a list of the insurers licensed at the date of the list, and shall from time to time cause notice of the license of an insurer not theretofore licensed and notice of suspension or cancellation or revivor of license to be given by publication in the *Ontario Gazette*. Annual publication in Ontario Gazette,—notice of license.

(2) A certificate under the hand and seal of office of the Superintendent that on a stated day an insurer mentioned therein was or was not licensed under this Act, or that any insurer was originally admitted to license or that the license of any insurer was renewed, suspended, revived, revoked or cancelled on a stated day, shall be *prima facie* evidence of the acts stated in the certificate. Certificate of Superintendent is evidence of license, etc.

Evidence,—  
filing of  
documents.

(3) A certificate of the filing of any document by this or any former Insurance Act required to be filed in the office of the Provincial Registrar or of the Superintendent shall be *prima facie* evidence of the filing if signed or purporting to be signed by the Deputy or Assistant or by the acting Deputy or Assistant Provincial Registrar or by the Superintendent as the case may be. R.S.O. 1927, c. 222, s. 9.

Superin-  
tendent to  
determine  
right of  
insurer to  
be licensed.

10. The duty of determining the right of any insurer in Ontario to be licensed under this Act, shall devolve upon the Superintendent subject to appeal as hereinafter provided, but nothing in this section shall affect the right of the Lieutenant-Governor in Council or of the Minister to suspend or cancel any license in the exercise of his authority under the provisions of this Act. R.S.O. 1927, c. 222, s. 10.

Decision of  
Super-  
intendent.

11.—(1) Every decision of the Superintendent upon an application for a license shall be in writing and notice thereof shall be forthwith given to the insurer.

Certified  
copy of.

(2) The insurer, or any person interested shall be entitled, upon payment of the prescribed fee, to a certified copy of the decision.

Steno-  
graphic  
report of  
evidence.

(3) The evidence and proceedings in any matter before the Superintendent may be reported by a stenographer sworn before the Superintendent to faithfully report the same. R.S.O. 1927, c. 222, s. 11.

Appeal.

12.—(1) An applicant for a license under this Act or any person who deems himself aggrieved by a decision of the Superintendent, may appeal therefrom to the Court of Appeal.

When to be  
set down.

(2) The appeal shall be set down for argument at the first sitting of the Court of Appeal which commences after the expiration of thirty days from the decision complained of.

Procedure.

(3) The practise and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court, in an action.

Certificate.

(4) The Superintendent shall certify to the registrar of the Court of Appeal the decision appealed from, his reasons therefor, and the documents, inspection reports, and evidence, if any, and such other information as he had before him in making the said decision. R.S.O. 1927, c. 222, s. 12.

Conse-  
quences of  
failure to  
answer  
inquiries.

13. The Superintendent may direct to an insurer any inquiry touching the contracts or financial affairs of the insurer, and the insurer shall be bound to make prompt and



explicit answer to any such inquiry, and shall in case of refusal or neglect to answer be guilty of an offence. R.S.O. 1927, c. 222, s. 13.

**14.** The Superintendent, or any person authorized under his hand or seal of office, shall, at all reasonable times, have access to all the books, securities and documents of an insurer, agent or broker, which relate to contracts of insurance, and any officer or person in charge, possession, custody or control of such books, securities or documents who refuses or neglects to afford such access shall be guilty of an offence. R.S.O. 1927, c. 222, s. 14; 1929, c. 53, s. 4.

**15.**—(1) It shall be the duty of the officers and agents of a licensed insurer, and of persons licensed hereunder, or of any insured, to furnish the Superintendent on his request with full information relative to any contract of insurance issued by the insurer or to the insured which comes within the terms of sections 86 and 130 or relative to any settlement or adjustment under any such contract.

(2) The Minister may, at his discretion, instruct the Superintendent to visit the head office or chief agency from which the contract was issued, or the office of the adjuster, and inquire into such contract or settlement, and the provisions of section 14 shall apply *mutatis mutandis* to such inquiry. R.S.O. 1927, c. 222, s. 15.

**16.**—(1) The Superintendent shall visit personally, or cause a duly qualified member of his staff to visit at least annually the head office or chief office in Ontario of every licensed insurer other than a mutual benefit society having less than three hundred members and an insurer as to which he adopts the inspection of some other government and he shall examine the statements of the condition and affairs of each such insurer filed under this Act, and make such inquiries as are necessary to ascertain its condition and ability to provide for the payment of its contracts as they mature and whether or not it has complied with all the provisions of this Act applicable to its transactions and the Superintendent shall report thereon to the Minister as to all matters requiring his attention and decision. R.S.O. 1927, c. 222, s. 16 (1); 1929, c. 53, s. 5; 1931, c. 49, s. 3; 1933, c. 22, s. 2.

(2) Where the head office of any such insurer is not in Ontario and the Superintendent deems it necessary and expedient to make a further examination into the affairs of the insurer and so reports to the Minister, the Minister may, in his discretion, instruct the Superintendent to visit the head

office of such insurer to inspect and examine its affairs and to make such further inquiries as the Minister may require.

Duty of officers and agents.

(3) The officers or agents of such insurer shall cause the books and records of the insurer to be opened for the inspection of the Superintendent and shall otherwise facilitate such examination so far as it is in their power.

Production of books at head office or as Superintendent may direct.

(4) In order to facilitate the inspection of the books and records of an insurer the insurer may be required by the Superintendent with the approval of the Minister, to produce the said books and records at the head or chief office of the insurer in Ontario or at such other convenient place as the Superintendent may direct, and the officer or officers of the insurer who have custody of the books and records shall be entitled to be paid by the insurer for the actual expenses of such attendance.

Examination of affairs of an insurer.

(5) The Superintendent with the approval of the Minister may cause abstracts to be prepared of the books and vouchers and a valuation to be made of the assets or liabilities of any such insurer and the cost thereof upon the certificate of the Superintendent approved by the Minister shall be paid by the insurer.

Expenses of examination.

(6) Where the office of an insurer at which an examination is made pursuant to this section is out of Ontario, the insurer shall pay the account of the Department in connection with such examination upon the certificate of the Superintendent approved by the Minister. R.S.O. 1927, c. 222, s. 16 (2-6).

Service of notice or process on Superintendent.

**17.**—(1) Where the head office of a licensed insurer is situate outside of Ontario, notice or process in any action or proceeding in Ontario may be served upon the Superintendent and such service shall be deemed service upon the insurer in the case of a corporation and upon members of the insurer in the case of an unincorporated body or association.

Insurer to file address.

(2) Every licensed insurer shall file in the office of the Superintendent notice of a post office address to which any such notice or process may be forwarded by the Superintendent and shall from time to time notify the Superintendent of any change in the address so filed.

Superintendent to forward notice or process forthwith.

(3) The Superintendent shall forthwith after the receipt of any such notice or process forward the same to the insurer by registered mail, postage prepaid, addressed in the manner last notified to him for this purpose by the insurer. R.S.O. 1927, c. 222, s. 17.

18.—(1) The Superintendent shall prepare for the Minister from the statements filed by the insurers and from any inspection or inquiries made, an annual report, showing particulars of the business of each insurer as ascertained from such statement, inspection and inquiries, and such report shall be printed and published forthwith after completion.

Annual  
report.

(2) In his annual report the Superintendent shall allow as assets only such of the investments of the several insurers as are authorized by *The Companies Act*, or by their acts or instruments of incorporation, or by the general Acts applicable to such investments.

Permissible  
investments.  
Rev. Stat.  
c. 251.

(3) In his said report the Superintendent shall make all necessary corrections in the annual statements made by all licensed insurers as herein provided, and shall be at liberty to increase or diminish the liabilities of such insurers to the true and correct amounts thereof as ascertained by him in the examination of their affairs at the head office thereof in Ontario, or otherwise.

Superin-  
tendent's  
corrections  
of annual  
statements.

(4) If it appears to the Superintendent, or if he has any reason to suppose, from the annual statements prepared and delivered to him by all insurers, that the value placed by any insurer, incorporated and licensed in Ontario, upon the real estate owned by it or any parcel thereof is too great, he may either require such insurer to secure an appraisalment of such real estate by one or more competent valuers, or may himself procure such appraisalment at the expense of the insurer, and the appraised value, if it varies materially from the statement or return made by the insurer, may be substituted in the said annual report of the Superintendent.

Appraise-  
ment of real  
estate owned  
by insurer.

(5) In like manner, if it appears to the Superintendent, or if he has any reason to suppose, that the amount secured by mortgage or hypothec upon any parcel of real estate, together with the interest due and accrued thereon, is greater than the value of such parcel, or that such parcel is not sufficient for such loan and interest, he may procure an appraisalment thereof, and if from the appraised value it appears that such parcel of real estate is not adequate security for the loan and interest, he may write off such loan and interest a sum sufficient to reduce the same to such an amount as may fairly be realizable from such security, in no case to exceed such appraised value, and may insert such reduced amount in his said annual report.

Appraise-  
ment of real  
estate held  
as security  
for loans.

(6) In like manner, if it appears to the Superintendent, or if he has any reason to suppose, that the value of any other investments of the funds of the insurer is less than the amount of the value of the investments shown in the books of the

Appraise-  
ment of other  
investments.



insurer he may make or cause to be made an appraisal of such security, and if from the appraised value it appears that the value of the securities as shown on the books of the insurer is greater than its true value as shown by the appraisal he may reduce the book value of the same to such amount as may fairly be realizable therefrom, and in no case to exceed such appraised value, and may insert such reduced amount in his said annual report. R.S.O. 1927, c. 222, s. 18.

Superintendent to report on petition for authorization of court bonds.

**19.** Upon request by the Minister, the Superintendent shall prepare for the consideration of the Lieutenant-Governor in Council, a report upon the petition of any insurer, praying to have its bonds authorized by Order-in-Council for acceptance in lieu of personal or private suretyship pursuant to any Act of Ontario wherein or whereby the Lieutenant-Governor in Council is empowered to authorize the giving or acceptance of securities or of the personal bonds of sureties, and in such report the Superintendent shall set out all material facts relating to the age, paid-up capital, surplus of assets over liabilities, underwriting experience and generally such other information relating to the financial condition and standing of the insurer as, in his opinion, should govern the granting or refusal of the petition. R.S.O. 1927, c. 222, s. 19.

## PART II.

### GENERAL PROVISIONS APPLICABLE TO INSURERS IN ONTARIO.

Application of Part.

**20.**—(1) This Part shall apply to insurance undertaken in Ontario and to all insurers carrying on business in Ontario.

Undertaking insurance.

(2) Any insurer undertaking a contract of insurance which, under the provisions of this Act, is deemed to be made in Ontario, whether the contract is original or renewed except the renewal from time to time of life insurance policies, shall be deemed to be undertaking insurance in Ontario within the meaning of this Part. R.S.O. 1927, c. 222, s. 20 (1, 2).

Carrying on business.

(3) Any insurer undertaking insurance in Ontario or which within Ontario sets up or causes to be set up any sign containing the name of an insurer, or which within Ontario maintains or operates either in its own name or in the name of its agent or other representative, any office for the transaction of the business of insurance either within or without Ontario, or which, within Ontario distributes or publishes or causes to be distributed or published any proposal, circular, card, advertisement, printed form or like document, or which within Ontario makes or causes to be made any written or



oral solicitation for insurance, or which within Ontario issues or delivers any policy of insurance or interim receipt or collects or receives or negotiates for or causes to be collected or received or negotiated for any premium for a contract of insurance or inspects any risk or adjusts any loss under a contract of insurance, or which prosecutes or maintains in Ontario any action or proceeding in respect of a contract of insurance or any club, society or association incorporated or unincorporated which receives either as trustees or otherwise, any contributions or moneys from its members out of which gratuities or benefits are paid directly or indirectly upon the death of its members or any of them, shall be deemed to be an insurer carrying on business in Ontario within the meaning of this Act. R.S.O. 1927, c. 222, s. 20 (3); 1929, c. 53, s. 6.

### *Licenses.*

**21.—**(1) Every insurer undertaking insurance in Ontario or carrying on business in Ontario shall obtain from the Minister and hold a license under the provisions of this Act. Necessity for license.

(2) Every insurer undertaking insurance or carrying on business in Ontario without having obtained a license as required by this section, shall be guilty of an offence. Prohibition.

(3) Any person who within Ontario does or causes to be done any act or thing mentioned in subsection 3 of section 20 on behalf of or as agent of an insurer not licensed under this Act or who receives directly or indirectly any remuneration for so doing shall be guilty of an offence. R.S.O. 1927, c. 222, s. 21 (1-3). Prohibition against person acting on behalf of unlicensed insurer.

(4) The following shall not be deemed insurers within the meaning of this Act or required or entitled to be licensed as such,— Exception.

(a) pension fund societies or employees mutual benefit societies incorporated under the provisions of *The Companies Act*;

Rev. Stat.  
c. 251.

(b) corporations mentioned in clauses *c* and *d* of section 231;

(c) a trade union in Ontario which, under the authority of its incorporating Act or charter, has an assurance or benefit fund for the benefit of its own members exclusively; R.S.O. 1927, c. 222, s. 21 (4).

(d) mutual benefit societies the membership of which is confined to railway employees which do not grant mortuary or funeral benefits. 1928, c. 35, s. 3.

Unauthor-  
ized insur-  
ance.

(5) An insurer incorporated and licensed by Ontario which carries on or solicits business in any foreign jurisdiction without being first authorized so to do under the laws of such foreign jurisdiction, shall be guilty of an offence. 1929, c. 53, s. 7.

Reinsurance  
with  
unlicensed  
insurer.

**22.** Nothing in this Act shall prevent a licensed insurer which has lawfully effected a contract of insurance in Ontario from reinsuring the risk or any portion thereof with any insurer transacting business out of Ontario and not licensed under this Act. R.S.O. 1927, c. 222, s. 22.

What in-  
surers may  
be licensed.

**23.**—(1) Upon due application and upon proof of compliance with this Act, the Minister may issue a license to undertake contracts of insurance and carry on business in Ontario to any insurer coming within one of the following classes,—

- (a) joint stock insurance companies;
- (b) mutual insurance corporations;
- (c) cash-mutual insurance corporations;
- (d) fraternal societies;
- (e) mutual benefit societies;
- (f) companies duly incorporated to undertake insurance contracts and not within any of the classes mentioned in clauses, *a, b, c, d, and e*;
- (g) reciprocal or inter-insurance exchanges;
- (h) underwriters or syndicates of underwriters operating on the plan known as Lloyds;
- (i) pension fund associations.

Effect of  
license.

(2) A license issued pursuant to this Act shall authorize the insurer named therein to exercise within Ontario all rights and powers reasonably incidental to the carrying on of the business of insurance named therein which are not inconsistent with the provisions of this Act or with the terms of its Act or instrument of incorporation or organization. R.S.O. 1927, c. 222, s. 23.

Classes of  
insurance.

**24.**—(1) Subject to provisions of Parts of this Act particularly relating to classes of insurers mentioned in section 23, a license may be granted to an insurer to carry on any one or more of the classes of insurance defined in section 1 and such other classes as may be prescribed by the regulations. 1934, c. 22, s. 3 (1).

(2) Where a question arises as to the class of insurance into which any specific contract of insurance or form of policy falls, the Superintendent may determine the question and his determination shall be effective and final for the purposes of this Act. 1935, c. 30, s. 3.

Determina-  
tion of  
classes of  
insurance  
by Super-  
intendent.

(3) A license may be issued subject to such limitations and conditions as the Minister may prescribe. R.S.O. 1927, c. 222, s. 24 (3); 1934, c. 22, s. 3 (2).

Limited or  
conditional  
license.

**25.** It shall be a condition of a license to carry on automobile insurance in Ontario, for breach of which such license may be cancelled, that, in any action or proceeding in Ontario against a licensed insurer, or its insured, arising out of a motor vehicle accident in Ontario, such insurer shall appear, and shall not set up any defence to a claim under a policy issued outside of Ontario which might not be set up if such policy were issued in Ontario, in accordance with the law of Ontario relating to motor vehicle liability policies. 1931, c. 49, s. 4.

Require-  
ments where  
automobile  
policy issued  
outside  
Ontario.

**26.** Every insurer licensed for the transaction of life insurance may, under the authority of its license, unless the license expressly provides otherwise, issue annuities and endowments of all kinds and also include in any policy of life insurance, in respect of the same life or lives insured thereby, disability insurance and double indemnity insurance. 1934, c. 22, s. 4.

Scope of life  
insurance  
license.

**27.—(1)** A license shall not be granted,—

Restrictions  
on granting  
licenses.

(a) to a joint stock insurance company undertaking life insurance, unless the company shall furnish to the Superintendent satisfactory evidence that of the capital stock not less than \$200,000 has been *bona fide* subscribed for and allotted, and at least \$100,000 of the said subscribed stock has been paid in, in cash;

Joint stock  
companies.

(b) to a joint stock insurance company undertaking any one or more classes of insurance other than life, except upon proof,—

(i) where such company is undertaking insurance in Ontario only, that of the capital stock not less than \$50,000 has been *bona fide* subscribed and allotted, and at least \$25,000 of the said subscribed stock has been paid in, in cash; and



- (ii) where such company is undertaking insurance in Ontario and elsewhere, that of the capital stock not less than \$100,000 has been *bona fide* subscribed and allotted, and at least \$50,000 of said subscribed stock has been paid in, in cash. R.S.O. 1927, c. 222, s. 25 (1); 1931, c. 49, s. 5, *part*.

Other  
insurers.

(2) A license shall not be granted to a mutual insurance corporation, a cash-mutual insurance corporation, an insurance company mentioned in clause *f* of section 23, a reciprocal or inter-insurance exchange, or to an underwriter or syndicate of underwriters operating on the plan known as Lloyds, except upon proof that the net surplus of assets over all liabilities exceeds the amount fixed by subsection 1 for the paid in capital stock of joint stock insurance companies, and that such net surplus of assets over all liabilities together with the contingent liability of members, if any, exceeds the amount fixed by subsection 1 for the subscribed and allotted capital stock of joint stock insurance companies for the respective classes of insurance mentioned therein. R.S.O. 1927, c. 222, s. 25 (2); 1931, c. 49, s. 5, *part*.

Application  
of sub-  
section 2.

(3) Subsection 2 shall not apply to a purely mutual insurance corporation incorporated under the law of Ontario and insuring only risks other than mercantile and manufacturing on the premium note plan.

Application  
of other  
Parts.

(4) A license shall not be granted to any insurer except upon proof that such insurer has complied with the provisions of the respective Parts of this Act and regulations applicable thereto. R.S.O. 1927, c. 222, s. 25 (3, 4).

License for  
both fire  
and life.

(5) A license shall not be granted to an insurer for the transaction of both fire and life insurance unless it maintains separate and distinct accounts, funds, and securities in respect of its business of life insurance, and those funds and securities are available only for the protection of the holders of its policies of life insurance and are not liable for the payment of claims arising from any other class of insurance which the insurer undertakes, and the insurer complies with such other requirements as the Superintendent may impose for the purposes of this provision. R.S.O. 1927, c. 222, s. 25 (5); 1933, c. 22, s. 3 (1).

Evidence  
by insurer  
when head  
office is  
outside of  
Ontario.

(6) Where the head office of an applicant for a license under this Act is situate outside of Ontario, a license shall not be granted except upon proof of the applicant's ability to provide for the payment at maturity of all its contracts, but the Superintendent may accept as sufficient the fact that such

an insurer is licensed by any other government in Canada. R.S.O. 1927, c. 222, s. 25 (6); 1933, c. 22, s. 3 (2).

(7) A license shall not be granted to a corporation which is incorporated under the law of a province other than that of the Province of Ontario unless the head office and chief place of business of such corporation is situate within the boundaries of such province. 1935, c. 30, s. 4; 1937, c. 72, s. 29 (1).

**28.** The Superintendent may require such notice of the application for a license to be given by publication in the *Ontario Gazette* and elsewhere as he deems necessary. R.S.O. 1927, c. 222, s. 26.

**29.—**(1) Before the issue of a license to an insurer such insurer shall file in the office of the Superintendent the following documents,—

- (a) a certified copy of the Act or other instrument of incorporation or association of the insurer and of its constitution and by-laws and regulations verified in a manner satisfactory to the Superintendent;
- (b) a certified copy of the last balance sheet of the insurer and auditor's report thereon;
- (c) if the head office of the insurer is outside of Ontario notice of the place where the chief office of the insurer in Ontario is to be situate;
- (d) copies of all policy forms and forms of application for insurance proposed to be used by the insurer in Ontario;
- (e) any other evidence or documents required by other Parts of this Act.

(2) The applicant for a license shall furnish such other evidence as the Superintendent may deem necessary that the requirements of this Act have been complied with and that the applicant is entitled to the license applied for. R.S.O. 1927, c. 222, s. 27.

**30.—**(1) Upon application being made for a license under this Act by an insurer incorporated after the commencement of this Act under any general or special Act of Ontario, there shall be submitted to the Superintendent a sworn statement setting forth the several sums of money paid in connection with the incorporation and organization of the insurer, and such statement shall, in addition, include a list of all unpaid liabilities, if any, in connection with or arising out of such incorporation and organization.

To what  
limited.

(2) Until the license is granted, no payments on account of expenses of incorporation and organization shall be made out of the moneys paid in by shareholders except reasonable sums for the payment of clerical assistance, legal services, office rental, advertising, stationery, postage and expense of travel, if any.

Conditions  
precedent  
to issue of  
license.

Rev. Stat.  
c. 251.

(3) The Minister shall not issue the license until he is satisfied that all the requirements of this Act and of *The Companies Act*, as to the subscriptions to the capital stock, the payment of money by shareholders on account of their subscriptions, the election of directors and other preliminaries have been complied with, and unless he is satisfied that the expenses of incorporation and organization, including the commission payable for the sale of the stock of the insurer are reasonable. R.S.O. 1927, c. 222, s. 28.

Right to  
license.

Rev. Stat.  
c. 251.

31. An insurer which has applied for a license and has complied with the requirements of this Act and of *The Companies Act* shall be entitled to the license. R.S.O. 1927, c. 222, s. 29.

Form of  
license.

32.—(1) Subject to the provisions of section 270 the license shall be in such form or forms for the different classes of insurers, as may be from time to time determined by the Minister, and shall specify the business to be carried on by the insurer.

Term of  
license.

(2) The license shall expire on the 30th day of June in each year, and may be renewed from year to year, provided that such license may be from time to time renewed for any term less than a year. R.S.O. 1927, c. 222, s. 30.

Notice of  
disputed  
claims to  
Super-  
intendent.

33. An insurer shall give notice in writing to the Superintendent of every disputed claim arising from loss insured under a contract made in Ontario within sixty days after proof of the loss or of the happening of the event upon which the insurance money is to become payable. R.S.O. 1927, c. 222, s. 31.

Failure  
to pay  
undisputed  
claim.

34.—(1) Where written notice has been served on the Superintendent and upon proof of an undisputed claim arising from loss insured against in Ontario remaining unpaid for the space of sixty days after being due or of a disputed claim after final judgment in the regular course of law and tender of a legal, valid discharge being unpaid the license of the insurer shall *ipso facto* be null and void and shall be deemed to be cancelled.

Revival of  
license.

(2) Such license may be revived and the insurer may again transact business if, within six months after notice to the



Superintendent of the failure of the insurer to pay any undisputed claim or the amount of any final judgment as provided in this section, such undisputed claim or final judgment upon or against the insurer in Ontario is paid and satisfied. R.S.O. 1927, c. 222, s. 32.

**35.** When the insurer fails to keep unimpaired the deposit, if any, hereinafter required, the Minister may suspend or cancel the license of the insurer. R.S.O. 1927, c. 222, s. 33. Failure to keep deposit unimpaired.

**36.—(1)** If the Superintendent, upon examination, or from annual statements, or upon other evidence, finds that the assets of any insurer are insufficient to justify the continuance of the insurer in business or to provide proper security to persons effecting insurance with the insurer in Ontario or that the insurer has failed to comply with any provision of law or with the Act or instruments of incorporation or association of the insurer, he shall so report to the Minister. Insufficiency of assets to be reported by Superintendent.

(2) If it appears in the case of an insurer undertaking contracts of life insurance, that its policy reserves, and, in the case of any other insurer, that its unearned premiums, in both cases, respecting outstanding contracts within the meaning of sections 86 and 130, together with any other liabilities in Ontario, exceed its assets in Ontario, including the deposit in the hands of the Minister, the assets of the insurer shall be deemed insufficient to justify the continuance of the insurer in business within the meaning of subsection 1, and the Superintendent shall so report to the Minister. R.S.O. 1927, c. 222, s. 34 (1, 2). When assets deemed insufficient.

(3) If the Minister, after consideration of the report and after a reasonable time has been given to the insurer to be heard by him, and upon such further inquiry and investigation as he thinks proper to make, reports to the Lieutenant-Governor in Council that he concurs in the report of the Superintendent, the Lieutenant-Governor in Council may suspend or cancel the license of the insurer. R.S.O. 1927, c. 222, s. 34 (3); 1933, c. 22, s. 4 (1). Suspension or cancellation.

(4) Notice of such suspension or cancellation of the license shall be published in the *Ontario Gazette* and elsewhere as the Minister may direct and thereafter any person transacting business on behalf of the insurer except for winding-up purposes shall be guilty of an offence. R.S.O. 1927, c. 222, s. 34 (4); 1933, c. 22, s. 4 (2). Notice.

(5) Where the Superintendent has reported as provided in subsection 1, the Minister or the Lieutenant-Governor in Council may direct the issue of such modified, limited or conditional license as may be deemed necessary for the pro- Limited or conditional license.



tection of persons in Ontario who have effected or effect contracts of insurance with the insurer. R.S.O. 1927, c. 222, s. 34 (5).

Application to licensees of any government in Canada.

(6) Upon the suspension or cancellation of the license of an insurer by any government in Canada, the Superintendent may suspend or cancel the license of such insurer under this Act. 1933, c. 22, s. 4 (3).

Revival of license.

**37.** Where the license of an insurer is suspended or cancelled under the provisions of this Act, it may be revived if the insurer makes good the deposit, or the deficiency, as the case may be, to the satisfaction of the Minister. R.S.O. 1927, c. 222, s. 35.

Report on violation of Act.

**38.** It shall be the duty of the Superintendent to report to the Minister any violation of any of the provisions of this Act by any insurer licensed thereunder and thereupon the Minister may, in his discretion, suspend or cancel or refuse to renew the insurer's license. R.S.O. 1927, c. 222, s. 36.

### *Deposits.*

Meaning of "insurer" in sections 40 to 70.

**39.**—(1) Subject to the provisions of subsections 2 and 3 hereof, in sections 40 to 70 "insurer" shall be deemed to mean and include only joint stock insurance companies, cash-mutual insurance corporations, insurance companies mentioned in clause *f* of section 23, insurers which undertake life insurance except fraternal societies, and underwriters or syndicates of underwriters operating on the plan known as Lloyds. R.S.O. 1927, c. 222, s. 37 (1).

Application to Dominion licensees.

(2) The provisions of sections 40 to 70 shall not apply to an insurer maintaining a reciprocal deposit with the government of another province pursuant to sections 45 to 48, or expressly exempted by order of the Lieutenant-Governor in Council. R.S.O. 1927, c. 222, s. 37 (2); 1933, c. 22, s. 5.

Application to Lloyds.

(3) The provisions of sections 40 to 70 shall not apply to an underwriter or syndicate of underwriters which is a member of the society known as Lloyds, incorporated by the Imperial Statute, *Lloyds Act, 1871*.

Meaning of "approved securities."

(4) The expression "approved securities" in sections 40 to 70 shall mean and include only securities of or guaranteed by the Dominion of Canada or by any province of Canada, securities of any incorporated municipality of Canada, and such other securities as are authorized for the investment of trust funds under the law of the province in which they are offered for deposit and approved by the Superintendents of Insurance of the Provinces of Canada in which the insurer is carrying on business. R.S.O. 1927, c. 222, s. 37 (3, 4).

**40.**—(1) Every insurer carrying on the business of insurance in Ontario shall, before receiving a license under this Act, deposit approved securities with the Minister in the following amounts,—

- (a) where the insurer undertakes life insurance—\$50,000;
- (b) where the insurer undertakes any one or more classes of insurance other than life,—
  - (i) in Ontario only—\$25,000;
  - (ii) in Ontario and elsewhere—\$50,000.

(2) The maximum deposit required from an insurer shall be \$50,000, but an insurer may voluntarily make a deposit in excess of the amount prescribed by this section but no part of a voluntary deposit shall be withdrawn without the sanction of the Minister. R.S.O. 1927, c. 222, s. 38.

**41.**—(1) The value of such securities shall be estimated at their market value, not exceeding par, at the time when they are deposited.

(2) If any other than approved securities are offered as a deposit, the Minister may accept the same on such valuation and on such conditions as he may deem proper.

(3) If the market value of any securities which have been deposited by an insurer declines below that at which they were deposited, the Minister may notify the insurer to make such further deposit as will ensure the accepted value of all the securities deposited by the insurer being equal to the amount which is required by this Act to be deposited.

(4) On failure by the insurer to make such further deposit within sixty days after being called upon so to do, the Minister may suspend or cancel the license.

(5) The property in any stock, bonds or debentures already deposited with the Minister under the provisions of *The Ontario Insurance Act, 1924*, or hereafter deposited under the provisions of this Act, shall be vested in the Minister by virtue of his office without any formal transfer while such stock, bonds, or debentures form the whole or any part of the deposit required by this Act.

(6) So long as the conditions of this Act are satisfied and no notice of any final judgment against the insurer or order for its winding-up, or for the distribution of its assets or for administration of its deposit is given to the Minister, the insurer shall be entitled to receive the interest upon the securities forming the deposit. R. S. O. 1927, c. 222, s. 39.

Substitution  
of securities.

**42.** Where an insurer desires to substitute other approved securities for securities deposited the Minister may permit the substitution to be made. R.S.O. 1927, c. 222, s. 40.

Withdrawal  
of deposit in  
certain cases.

**43.**—(1) Where it is made to appear that any such insurer, having made a deposit with the Minister, has made a deposit with any other government in Canada, the insurer shall be entitled, with the sanction of the Lieutenant-Governor in Council, to withdraw the deposit with the Minister. R.S.O. 1927, c. 222, s. 41 (1); 1933, c. 22, s. 6.

Withdrawal  
of excess  
deposit.

(2) If at any time it appears that an insurer has on deposit with the Minister under this Act a sum in excess of the prescribed amount, the Minister, upon being satisfied that the interest of persons effecting contracts of insurance with the insurer in Ontario will not be prejudiced thereby, and upon giving such notice in the *Ontario Gazette* and taking such other precautions as he deems expedient, may authorize the withdrawal of the amount of such excess or such portion thereof as he deems advisable; but the Minister may authorize such withdrawal without giving notice. R.S.O. 1927, c. 222, s. 41 (2).

Return of  
deposit on  
ceasing to do  
business.

**44.**—(1) An insurer which has ceased to transact business in Ontario and desires to obtain a return of its deposit may give written notice to that effect to the Superintendent, and shall publish in the *Ontario Gazette* a notice that it has applied to the Lieutenant-Governor in Council for the return of its deposit, calling upon all claimants, contingent or actual, who object to the return to file their objections with the Superintendent on or before a day named in the notice, which shall not be less than three months after the first publication of it.

Filing list of  
outstanding  
contracts.

(2) Upon giving the notice to the Superintendent the insurer shall file with him a list of all its outstanding contracts of insurance, including contracts in respect of which claims have accrued.

Return of  
deposit on  
proof of  
discharge of  
contracts.

(3) After the day named in the notice, if the Minister is satisfied that the insurer has obtained a discharge of all such outstanding contracts, the Lieutenant-Governor in Council may direct that the deposit be returned.

Return of  
part of  
deposit.

(4) If the Minister is not satisfied that all such contracts have been discharged the Lieutenant-Governor in Council may direct that a sufficient amount be retained to meet the contracts unprovided for and that the remainder of the deposit be returned, and thereafter from time to time as such contracts lapse or proof is adduced that they have been satisfied further return of the deposit may be directed by the Lieutenant-Governor in Council. R.S.O. 1927, c. 222, s. 42.



*Reciprocal Deposits.*

**45.**—(1) In sections 46 and 47 the expression “contracts” shall in relation to any other province of the Dominion have the meaning assigned to it by the Act of that province under which insurers are licensed to carry on the business of insurance. Meaning of “contracts” in ss. 46, 47.

(2) This section and sections 46 and 47 shall be applicable notwithstanding that the insurer is or may become licensed in one province for classes of insurance different from those for which it is or may become licensed in another province. Application of ss. 45, 46, 47.  
R.S.O. 1927, c. 222, s. 43.

**46.**—(1) Where an insurer has its head office for the Dominion in Ontario and makes a deposit under this Act for the purposes of this section, by virtue whereof the insurer will not be required to make a deposit in another province in which it is or may become licensed to undertake insurance, the following provisions shall have effect, and to the extent that they are inconsistent with any other provision of this Act shall prevail over that provision, namely,— Sole deposit of insurer in Ontario.

- (a) the amount of the deposit to be made and maintained by the insurer shall be fixed by the Lieutenant-Governor in Council, and shall be not less than \$50,000;
- (b) the deposit shall be held and administered as security *pari passu* for its contracts in Ontario and its contracts in any other province where it is or may become licensed to undertake insurance, and as security also for all fees, taxes, and costs payable by it to this and any other province;
- (c) the Minister shall, upon the request of the official who issues or proposes to issue a license to the insurer in another province, certify under his hand that the deposit is held in manner provided by clause b, and the Superintendent shall forward the certificate to that official and a copy to the Superintendent of Insurance in each province;
- (d) where, with respect to the outstanding contracts of the insurer, it appears to the Superintendent from the annual statement under section 73 or any examination of the affairs of the insurer that a further deposit for the purposes of this section is necessary, or where it appears to the Superin-

tendent of Insurance for another province in which the insurer is licensed from any annual report made to him by the insurer or any examination of the affairs of the insurer that a further deposit for the purposes of this section is necessary, and such Superintendent requests the Superintendent to obtain a further deposit, the insurer shall forthwith deposit such further sum as the Lieutenant-Governor in Council may fix; R.S.O. 1927, c. 222, s. 44 (1), cls. (a-d).

- (e) where the license of the insurer is suspended or cancelled under this Act, the Superintendent shall give immediate notice to the Superintendent of Insurance in each province;
- (f) where the insurer ceases to carry on insurance business in the Dominion and its deposit may be withdrawn under this Act, or where its deposit becomes liable to administration under this Act, the Superintendent shall notify the Superintendent of Insurance in each province, and all claims and liabilities arising in any such province shall be verified by the Superintendent of Insurance there and a statement thereof communicated to the Superintendent;
- (g) where the insurer withdraws from, or its license is suspended or cancelled in, or its deposit becomes liable to administration under the law of another province, and notice thereof is given to the Superintendent, the Minister and the Superintendent shall, upon request of the Superintendent of Insurance in that province, take such steps as would be taken if the insurer were withdrawing from, or its license were suspended or cancelled in, or its deposit had become liable to administration in Ontario, and all claims and liabilities arising in that province shall be verified by the Superintendent of insurance there and a statement thereof communicated to the Superintendent. R.S.O. 1927, c. 222, s. 44 (1), cls. (f-h).

Insurer not  
to remove  
head office  
without  
consent.

(2) The insurer shall not change the situation of its head office to another province without the consent of the Minister, but where the Minister so consents he may authorize the Superintendent to transfer the insurer's deposit to the Minister responsible for the deposit in that province, or to the insurer, as the Minister in that province requests. R.S.O. 1927, c. 222, s. 44 (2).

**47.**—(1) Where the insurer has its head office for the Dominion in another province and there makes a deposit of such amount as shall be fixed by the proper authority in that province, and which shall not be less than \$50,000, and which deposit is under the laws of that province held as security *pari passu* for its contracts in that province and its contracts in this and any other province where it is or may become licensed to undertake insurance, and as security also for all fees, taxes, and costs payable by it to each province, the Minister, upon receipt of a certificate from the Minister of that province responsible for the deposit that the deposit is and will be so held as aforesaid, and of the consent of the insurer to its being so held, shall exempt the insurer from the provisions of this Act requiring it to make and maintain a deposit.

(2) Where the deposit of the insurer becomes liable to administration for the purpose of satisfying its claims and liabilities arising in Ontario, the Superintendent shall, by notice in the *Ontario Gazette* or otherwise at the cost of the insurer, ascertain and advertise for particulars of all outstanding contracts of and claims against the insurer, verified in such manner as may seem advisable to him and shall upon receipt of the same properly verified communicate a statement thereof to the Superintendent of Insurance for the province holding the deposit, with particulars of any other liabilities for which the deposit is held as security.

(3) Where a licensed insurer is exempted under this section, the Minister shall transfer its deposit under this Act to the Minister responsible for the deposit in the province in which the insurer has its head office and which will hold the deposit, or to the insurer, as that Minister requests.

(4) Every provision of this section shall prevail over any provision of this Act to the extent that it is inconsistent with such other provision. R.S.O. 1927, c. 222, s. 45.

**48.**—(1) The Lieutenant-Governor in Council may, on being satisfied that any other province has enacted provisions identical with or substantially the same as sections 45 to 47, direct by Order-in-Council that those sections shall apply to that province, and may from time to time, by order, revoke or alter any such Order-in-Council.

(2) Every Order-in-Council under this section shall be published in the *Ontario Gazette*, and a copy shall be sent to the Superintendent of Insurance in each province. R.S.O. 1927, c. 222, s. 46.



Transfer of  
deposit on  
purchase or  
reinsurance.

**49.**—(1) Where a licensed insurer, hereinafter called the continuing insurer, has, by purchase or otherwise, acquired the assets and assumed the liabilities, within Ontario, of another licensed insurer, hereinafter called the discontinuing insurer, or reinsured all the contracts of a discontinuing insurer outstanding within Ontario, the Lieutenant-Governor in Council may, upon the application of the continuing insurer, and upon the report of the Superintendent, direct the transfer of the deposit held by the Minister under the provisions of this Act in the name of the discontinuing insurer to the continuing insurer.

Transferred  
deposit,—  
how dealt  
with.

(2) In any such case the deposit so transferred shall thereafter be treated and dealt with under the provisions of this Act in the same manner as though it had been originally deposited by the continuing insurer. R.S.O. 1927, c. 222, s. 47.

#### *Administration of Deposit.*

Deposit  
subject to  
adminis-  
tration.

**50.** The deposit made by any insurer under this Act shall be subject to administration in the manner hereinafter provided. R.S.O. 1927, c. 222, s. 48.

Deposit  
security for  
certain con-  
tracts only.

**51.** Creditors of the insurer in respect of claims under contracts of insurance which have for their subject property in Ontario or property in transit to or from Ontario, or the life, safety, fidelity or insurable interest of some persons resident, or whose head office is situate in Ontario, or where the contract itself makes payment thereunder primarily payable to some resident of Ontario, or to some incorporated company the head office of which is situate in Ontario, shall be entitled to share in the proceeds of the deposit. R.S.O. 1927, c. 222, s. 49.

Who may  
make  
application.

**52.** Application for administration may be made to the Superintendent by any person entitled to share in the proceeds of the deposit. R.S.O. 1927, c. 222, s. 50.

When order  
for adminis-  
tration may  
be made.

**53.**—(1) An order for administration of the deposit of any insurer may be made by the Superintendent, with the approval of the Minister at any time when, in his opinion, it is necessary or desirable for the protection of creditors entitled to share in the proceeds of the deposit.

Evidence.

(2) Any applicant for administration shall be entitled to an order for administration upon proof,—

- (a) that the license of the insurer has been cancelled, and that its assets are insufficient to discharge its outstanding contracts; or



(b) that an order has been made for the winding-up of the insurer; or

(c) that the insurer has failed to pay any undisputed claim arising under any contract of insurance in respect to which the deposit is subject to administration for the space of sixty days after it is due, or has failed to pay a disputed claim after final judgment and tender of a legal, valid discharge.

(3) No order for administration shall be made unless and until at least two clear days' notice of the intention of the Superintendent to make such an order or of the application for such an order has been served upon the insurer, or where the insurer is in liquidation, upon the liquidator of the insurer. Notice.  
R.S.O. 1927, c. 222, s. 51.

**54.** The administration proceedings shall not affect any winding-up of the insurer and shall be carried on independently of such winding-up. Relation to winding-up of insurer.  
R.S.O. 1927, c. 222, s. 52.

**55.** The property in the securities deposited with the Minister under the provisions of this Act shall, upon the making of an order for the administration of the said deposit, vest in the Superintendent and may be held, sold or dealt with by him for the benefit of creditors entitled to share in the proceeds of the deposit in such manner and after such notice and formalities as he deems proper. Vesting and disposition of securities.  
R.S.O. 1927, c. 222, s. 53.

**56.**—(1) Where an order for administration is made, the Superintendent shall proceed to administer the deposit in the manner hereinafter provided. Superintendent to administer.

(2) For the purposes of the administration the Superintendent may engage such clerical and other assistance and make such other disbursements as he may deem necessary and proper, and expenses so incurred shall be forthwith payable by him out of the proceeds of the deposit. Expenses of administration.  
R.S.O. 1927, c. 222, s. 54.

**57.** The Superintendent shall forthwith after an order of administration is made, fix a date within which all claimants against the deposit shall be required to file their claims, and publish in the *Ontario Gazette* and in the official *Gazette* of each province in which the insurer carries on business, and in two newspapers published at or nearest to the place where the head office of the insurer is situate, and in such other manner as he may deem necessary and proper, notice that Notice of order and date within which claims must be filed.

an order for the administration of the deposit of the insurer has been made and calling upon all claimants to file their claims on or before the date so fixed by him. R.S.O. 1927, c. 222, s. 55.

Insurer to  
furnish  
statement.

**58.**—(1) The Superintendent shall forthwith call upon the insurer, the agents of the insurer or upon the liquidator to furnish a statement of all its outstanding contracts and of the persons entitled to share in the proceeds of the deposit.

Access to  
books and  
records of  
insurer.

(2) The books, financial statements, policy records, schedules, accounts and vouchers of any insurer in respect of whose deposit an order for administration has been made, whether in the custody of the insurer, agents of the insurer or the liquidator, shall be accessible to the Superintendent or to any person authorized under his hand and seal, and any insurer or any officer thereof, or any agent or liquidator who refuses or neglects to afford such access shall be guilty of an offence. R.S.O. 1927, c. 222, s. 56.

Priorities,—  
other than  
life in-  
surance.

**59.**—(1) Except in the case of life insurance, claimants in respect of judgments obtained and claims accrued or matured at the date of the administration order shall be entitled to payment of their proved claims in full in priority to claimants in respect of unearned premiums and, subject thereto, claimants in respect of unearned premiums shall be entitled to claim such part of the premium paid as is proportionate to the period of their contracts respectively unexpired at the date of the administration order or at the date of the winding-up of the insurer if a winding-up order was previously made.

Life  
insurance.

(2) In the case of life insurance, claimants in respect of judgments obtained and claims accrued or matured, shall rank in the distribution of the proceeds of the deposit *pari passu* with claimants in respect of unmatured contracts, and claimants in respect of unmatured contracts shall be entitled to claim for the full amount of the legal reserve in respect of their contracts determined according to the valuation thereof approved by the Superintendent in accordance with the provisions of this Act. R.S.O. 1927, c. 222, s. 57.

Certain  
persons not  
entitled to  
share in  
proceeds of  
deposit.

**60.** A person who holds security for his claim under a contract of insurance, or who is entitled to share in the administration of a fund deposited with the government of any other province for the protection of persons resident in that province shall only be entitled to share in the administration of the Ontario fund if he abandons such special security and releases his claim upon any other government fund. R.S.O. 1927, c. 222, s. 58.

**61.** The holder of a policy or contract of insurance which matures or upon which a claim accrues within thirty days after the making of the administration order, shall be entitled to claim as a creditor at any time before the date fixed by the superintendent within which all claims must be filed or within thirty days thereafter, for the full amount of such claim; provided that no claim which accrued after the expiration of the thirty days hereinbefore mentioned shall rank upon the deposit, unless or until there is sufficient to pay all other creditors in full. R.S.O. 1927, c. 222, s. 59.

**62.**—(1) The Superintendent shall give notice to claimants who have sent in their claims to him, or of whose claims he has notice, and whose claims he considers should not be allowed without proof, requiring such claimant to attend before him on a day named in such notice and prove their claims.

(2) In case any claimant does not attend in pursuance of such notice, his claim shall be disallowed, unless the Superintendent sees fit to grant further time for the proof thereof.

(3) If any claimant attends in pursuance of such notice the Superintendent may on hearing the matter, make an order allowing or disallowing his claim in whole or in part. R.S.O. 1927, c. 222, s. 60.

**63.**—(1) All claimants notified to attend before the Superintendent to prove their claims and all parties interested in such claims may be represented before the Superintendent by counsel and the Superintendent may make such order as seems proper to him in respect to the payment of the costs of the parties so attending as amongst themselves or out of the proceeds of the deposit.

(2) A record of all correspondence, documents and evidence taken before the Superintendent relating to each disputed claim, together with a copy of the order of the Superintendent, shall be preserved in the office of the Superintendent. R.S.O. 1927, c. 222, s. 61.

**64.**—(1) Any claimant, or any person interested in any claim may, at any time within fifteen days of the making by the Superintendent of an order with respect to any disputed claim, serve upon the Superintendent and upon all persons parties to the proceedings before the Superintendent, notice of his intention to appeal from the order of the Superintendent.

(2) Such notice shall be served at least ten clear days before any notice of appeal is filed with the Court.



Procedure  
on appeal.

(3) The practice and procedure upon appeal from an order of the Superintendent shall be the same, as nearly as may be, as upon an appeal from a judge in the trial of an action.

Record.

(4) The Superintendent upon receiving notice of the intention of any claimant or interested party to appeal, shall forthwith certify the record, which shall include the correspondence, the documents and evidence relating to the claim and transmit the same with a copy of his order to the registrar of the Supreme Court. R.S.O. 1927, c. 222, s. 62.

Schedule of  
claimants.

**65.**—(1) The Superintendent shall prepare schedules of claimants showing those persons who appear by the books and records of the insurer to be entitled to share in the proceeds of the deposit and those persons who have filed claims pursuant to notice and whose claims have been approved by him, together with the name and address of each claimant, the particulars of the contract of insurance upon which the claim is based and the amount for which each claimant is entitled to rank upon the fund.

Filing of  
schedules.

(2) A copy of the completed schedules certified by the Superintendent shall be duly filed in his office at Toronto and notice of such filing shall forthwith be given by him in the manner provided in section 57 for the publication of the notice of the making of an order of administration.

Notice.

Inspection.

(3) Thereupon the schedules shall be open to inspection and, at any time within fifteen days after publication of the notice of such filing, any claim ranked or omitted to be ranked in such schedules may be contested by any person interested by serving a notice of dispute upon the Superintendent.

Notice of  
dispute.

Hearing of  
disputed  
claims.

(4) The provisions of sections 62, 63 and 64, relating to proof of claims before the Superintendent and appeal from the order of the Superintendent in that behalf, shall apply, *mutatis mutandis*, to claims of which a notice of dispute is served pursuant to the provisions of subsection 3.

Procedure.

When claims  
barred.

(5) At the expiration of fifteen days after publication of the notice of filing of the schedules, the claims as allowed in the schedules shall be deemed to be final and binding, except in cases where notice of dispute has been filed or appeals from an order of the Superintendent are pending, and all claims of which notice has not been received, and which are not shown in the schedules, shall be forever barred. R.S.O. 1927, c. 222, s. 63.

Reinsurance  
in lieu of  
claims.

**66.** At any time before the filing of the schedules as aforesaid, the Superintendent may arrange with any licensed insurer for the reinsurance by such insurer of the outstanding

risks or any class thereof of the insurer and apply such part of the proceeds of the deposit as may be agreed upon as the consideration for such reinsurance and, in such case, the arrangement for reinsurance shall be in lieu of all claims for unearned premiums in respect of the contracts so reinsured. R.S.O. 1927, c. 222, s. 64.

**67.** Where the Superintendent is of opinion that the proceeds of the deposit should be distributed while appeals from his orders are still pending, and while there are contingent claims still undetermined, he may before making such distribution, set aside a reserve estimated by him to be sufficient to cover all such disputed or contingent claims and the expenditure necessary to complete the administration. R.S.O. 1927, c. 222, s. 65.

Reserve for  
disputed or  
contingent  
claims.

**68.—**(1) The Superintendent shall prepare a statement of his account verified by affidavit, including particulars of the disposition of the securities deposited by the insurer under the provisions of this Act, and of all moneys received and disbursed by him in connection with the administration, together with all accounts and vouchers relative thereto.

Statement of  
accounts.

(2) The Superintendent shall submit his accounts to the master of the Supreme Court who shall appoint a day for the passing thereof and require such notice of the appointment for passing the accounts to be given as he may deem necessary and proper.

Passing of  
accounts  
before  
master.

(3) The master may make an order allowing or disallowing any item of the accounts and, in any such order, shall allow the Superintendent such remuneration for the performance of his duties in administering the deposit as he may deem proper, and determine the rate of dividend payable to claimants according to their respective priorities. R.S.O. 1927, c. 222, s. 66.

Order of  
master.

**69.—**(1) Forthwith after the passing of his accounts by the master the Superintendent may proceed to distribute the proceeds of the deposit, less any reserve he may set aside pursuant to the provisions of section 67, *pro rata* among the claimants in accordance with the schedule and the rate of dividend determined by the master.

Distribution  
of proceeds  
of deposit.

(2) Where the proceeds of the deposit are not sufficient to pay all claims in full, the acceptance of any dividend out of such proceeds shall not prejudice the right of any claimant to rank as a creditor upon the general estate of the insurer for the unpaid balance of such claim or bar any recourse policyholders may have, either at law or in equity, against the insurer.

When  
deposit not  
sufficient,  
creditor may  
rank on  
general  
estate.

Master to direct disposition of any balance.

(3) If any balance remains in the hands of the Superintendent after distribution of the dividend ordered by the master, settlement of all disputed or contingent claims and payment of the expenses of the administration, the master may, by order, direct the distribution of a further dividend, or if the amount is insufficient to justify the payment of a further dividend he may direct that such amount be paid over to the liquidator or the insurer. R.S.O. 1927, c. 222, s. 67.

Final passing of accounts.

**70.** Upon the completion of the distribution of the proceeds of the deposit the Superintendent shall submit his final accounts to the master, and the master may, on the passing thereof, make an order approving such accounts and formally discharging the Superintendent as administrator. R.S.O. 1927, c. 222, s. 68.

#### *Records and Returns.*

Record of premium income and losses.

**71.**—(1) Every licensed insurer which carries on in Ontario the business of fire insurance shall keep a record of its premium income derived from risks located in Ontario and of claims paid in respect of such risks so as to show at any time its experience according to the classification of occupancy hazards of the National Board of Fire Underwriters, with such modifications as the Superintendent may prescribe.

Audit and direction where records not duly kept.

(2) If, at any time, it appears to the Minister on the report of the Superintendent that such records are not kept in such a manner as to show correctly the experience of the insurer in Ontario as herein required the Minister may nominate a competent accountant to proceed under his direction to audit the books and records of the insurer and to give such instructions as will enable the officers of the insurer to keep the records correctly thereafter.

Expenses of audit.

(3) The expense of such an audit shall be borne by the insurer and shall not exceed \$15 per day and necessary travelling expenses of the accountant nominated and the account shall, when certified and approved under the hand of the Superintendent, be paid by the insurer forthwith.

Annual statement of premium income and losses.

(4) Every licensed insurer undertaking the business of fire insurance in Ontario, shall prepare and file annually with the Superintendent on or before the 1st day of July in each year, on a printed form to be supplied by the Superintendent, a sworn statement of the premium income and losses experienced within Ontario for the calendar year next preceding the date of the return according to the records required to be kept by this section.



(5) Any insurer and the principal officer within Ontario of any insurer which contravenes the provisions of this section shall be guilty of an offence. R.S.O. 1927, c. 222, s. 69. Contravention of section an offence.

**72.**—(1) Every licensed insurer which carries on in Ontario the business of automobile insurance shall prepare and file, when required with the Superintendent, or with such statistical agency as he may designate, a record of its automobile insurance premiums, and of its loss and expense costs in Ontario, in such form and manner, and according to such system of classification, as he may approve. Record of automobile premiums and costs.

(2) The Superintendent may require any agency so designated to compile the data so filed in such form as he may approve, and the expense of making such compilation shall be apportioned among the insurers whose data is compiled by such agency by the Superintendent who shall certify in writing the amount due from each insurer and the same shall be payable by the insurer to such agency forthwith. Compilation of data,—expense.

(3) The provisions of subsections 2, 3 and 5 of section 71 shall apply *mutatis mutandis* to the provisions of this section. 1930, c. 41, s. 2. Application, s. 71, subss. 2, 3 and 5.

**73.**—(1) Subject to the provisions of section 262, every licensed insurer shall prepare annually and deliver to the Superintendent on or before the last day of February of each year, a statement of the condition of affairs of the insurer as at the 31st day of December next preceding, which statement shall be in such form as may be prescribed by the Superintendent and shall exhibit the assets, liabilities, receipts and expenditures of the insurer for the calendar year ended on the said date, and shall also exhibit particulars of the business done in Ontario during such year and such other information as is deemed necessary by the Minister or Superintendent from time to time, and such statement shall be verified in the manner prescribed by the Superintendent. R.S.O. 1927, c. 222, s. 70 (1); 1932, c. 24, s. 3. Annual statement.

(2) In the case of an insurer designated by order of the Lieutenant-Governor in Council, the Superintendent may, in lieu of the annual statement required to be filed by all insurers under subsection 1, direct the preparation of a modified statement respecting the business of the insurer in Ontario only. R.S.O. 1927, c. 222, s. 70 (2); 1933, c. 22, s. 8. Modified statement for Dominion licensees.

(3) In the case of a corporation such statement shall be verified by the president, vice-president or managing director, or other director appointed for the purpose by the board of directors, and by the secretary or manager of the corporation. Who may verify statement.

Prompt  
reply to  
inquiries.

(4) Every insurer shall, when required by the Superintendent make prompt and explicit answer in reply to any inquiry directed to the insurer by him in relation to the said statement or in relation to the transactions of the insurer in Ontario. R.S.O. 1927, c. 222, s. 70 (3, 4).

Unearned  
premiums  
a liability.

(5) In the case of all classes of insurance other than life insurance, and in the case of all insurers, the statement shall show as a liability of the insurer, eighty per centum of the actual portions of unearned premiums on all business in force on the 31st day of December then last past, or eighty per centum of fifty per centum of the premiums written in its policies and received in respect of contracts having one year or less to run and *pro rata* on those for longer periods. R.S.O. 1927, c. 222, s. 70 (5); 1931, c. 49, s. 6.

Life  
insurers.

(6) In the case of insurers transacting life insurance the statement shall show as a liability the valuation of outstanding contracts of insurance according to the standard for valuation of policies of life insurance prescribed by section 77, or such higher standard as the insurer may, with the approval of the Superintendent, adopt. R.S.O. 1927, c. 222, s. 70 (6).

Certain  
agents' bal-  
ances, un-  
authorized  
securities,  
etc., must  
not show  
as assets.

(7) The statement shall not show as assets the unpaid balances owing by agents or other insurers in respect of business written prior to the 1st day of October in the next preceding calendar year, or bills receivable on account of the same, or unpaid capital or premium on subscribed shares of capital stock, or investment in office furnishings or equipment, nor shall such statements include as assets any investments not authorized by any special or general Act to which the insurer is subject. R.S.O. 1927, c. 222, s. 70 (7); 1930, c. 41, s. 3.

Valuation of  
securities.

(8) Every licensed insurer may, in its annual statement or in any valuation of its securities required to be made, value all of its securities, having a fixed term and rate and not in default as to principal or interest, according to the following rule; if purchased at par at the par value; if purchased above or below par on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield meantime the effective rate of interest at which the purchase was made; provided the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, and provided the Superintendent shall have full discretion in determining the method of calculating values according to the foregoing rule. R.S.O. 1927, c. 222, s. 70 (8).

Published  
statements.

**74.** A statement purporting to show the financial condition of an insurer differing from the financial condition shown by the statement filed with the Superintendent, or a balance

sheet or other statement in form differing from the form prescribed by the regulations, shall not be published or circulated, and every insurer publishing such a statement shall be guilty of an offence. R.S.O. 1927, c. 222, s. 71; 1930, c. 41, s. 4.

**75.** Every person who represents orally or in writing that the issue of a license to an insurer or the printing or publication of an annual statement in the report of the Superintendent or in any other publication of the Department or any other circumstance of the supervision or regulation of the business of the insurer by law or the Department is a warranty or guarantee of the financial standing of the insurer or of its ability to provide for the payment of its contracts at maturity, shall be guilty of an offence. R.S.O. 1927, c. 222, s. 72.

Statements that financial standing guaranteed by government prohibited.

### *Real Estate.*

**76.—(1)** Except in the case of a fraternal society a licensed insurer may acquire and hold absolutely for its own use and benefit such real property as is necessary for the transaction of its business or *bona fide* mortgaged to it by way of security, and such real property as is acquired by it by foreclosure and in satisfaction of a debt, and may sell, mortgage, lease or otherwise dispose of the same, but such insurer shall sell any such last mentioned real property within seven years after it has been so acquired.

Power of insurers as to holding land.

**(2)** Except in the case of a fraternal society a licensed insurer may acquire and hold real property in addition to that provided for by subsection 1 and may acquire or hold or construct a building larger than is required for the transaction of its business and may lease any part of such building not so required, upon complying with and subject to the provisions of *The Mortmain and Charitable Uses Act*.

Additional real property.  
Rev. Stat. c. 147.

**(3)** In the case of a fraternal or mutual benefit society, any licensed society or any branch or lodge thereof may, subject to its constitutions or rules, acquire and hold absolutely for its own use and benefit such real estate as is necessary for the transaction of its business or *bona fide* mortgaged to it by way of security, and when so authorized by the Lieutenant-Governor in Council, may acquire and hold or construct a building larger than is required for the transaction of its business and may lease any part of such building not so required, and may hold such real estate as is acquired by it by foreclosure or in satisfaction of a debt, and may sell, mortgage, lease or otherwise dispose of the same; but the society, branch or lodge shall sell any such last mentioned real estate within seven years after it has been so acquired.

Power of licensed fraternal societies as to holding land.



Forfeiture.

(4) Any such real property which has been held by the insurer for a longer period than seven years without being disposed of shall be forfeited to His Majesty for the uses of Ontario, provided that,—

- (a) no such forfeiture shall take effect until the expiration of at least six calendar months after notice in writing to the insurer by the Minister of the intention of His Majesty to claim the forfeiture; and
- (b) the insurer may, notwithstanding such notice, before the forfeiture is effected, sell or dispose of the property free from liability to forfeiture. R.S.O. 1927, c. 222, s. 73.

*Life Insurance Reserves.*

Standard of valuation.

**77.**—(1) The valuation of contracts of life insurance issued by insurers incorporated and licensed under the law of Ontario except contracts of fraternal societies licensed under this Act, shall be based on the British Offices' Life Tables, 1893, O<sup>M</sup> (5), and on a rate of interest of three and one-half per centum per annum; provided, however, that any such insurer may, with the approval of the Superintendent, adopt the American Men Ultimate Table of Mortality A<sup>M</sup> (5) with interest at three and one-half per centum per annum, for the valuation of contracts issued on and after January 1st, 1929. R.S.O. 1927, c. 222, s. 74 (1); 1929, c. 53, s. 9 (1).

Deduction allowed in first policy year.

(2) In computing such valuation a deduction may be allowed from the value of a policy in the first policy year of an amount ascertained in the following manner, namely; in the case of a twenty payment life policy or any other form of policy, except a term policy, the net annual premium upon which is less than the corresponding net annual premium of a twenty payment life policy, the difference between the net annual premium for such policy and the corresponding net premium for a one year term insurance, and in the case of a policy with a net annual premium greater than that of a twenty payment life policy, an amount equal to the deduction allowed in respect of a twenty payment life policy.

Deduction in subsequent years.

(3) After the first policy year the deduction allowed by subsection 2 shall be diminished each year by an amount not less than one-ninth of the deduction in the first policy year so that in the tenth year from the date of issue the value of the policy shall not be less than that ascertained in accordance with subsection 1.

(4) In case of policies subject to less than ten annual premiums the deduction ascertained as provided in subsection 2 shall, in each year after the first policy year, be reduced by an amount not less than the equal parts thereof required to provide that the value of the policy at the end of the premium paying period shall be not less than that ascertained in accordance with subsection 1. R.S.O. 1927, c. 222, s. 74 (2-4). Deduction where less than ten annual premiums.

(5) No insurer shall issue any contract of life insurance that shall not appear to be self-supporting upon reasonable assumption as to interest, mortality and expenses. 1929, c. 53, s. 9 (2). Contract must be self-supporting.

(6) Where a contract of life insurance provides for accident or sickness insurance benefits the Superintendent may prescribe by regulations the basis for valuing such benefits, but no deduction shall be allowed from the basis so fixed under the provisions of subsection 2, and in the valuation of the life insurance benefits under such contracts, the amount of the net annual premium upon which the deduction provided for in subsections 1 to 5 is to be based, shall be the net annual premium exclusive of the premium for such accident or sickness benefits. Accident and sickness benefits.

(7) In the case of annuity contracts, whether immediate or deferred, the valuation basis shall be the British Offices' Select Life Annuity Tables, 1893 (male or female according to the sex of the nominee) with interest at three and one-half per centum per annum. R.S.O. 1927, c. 222, s. 74 (6, 7). Annuity contracts.

(8) Where the contracts of a fraternal society are reinsured by a licensed insurer other than a fraternal society, the reinsurer may, with the approval of the Superintendent, value such contracts on the American Men Ultimate Table of Mortality A<sup>M</sup> (5) with interest at four per centum per annum. 1934, c. 22, s. 5. Valuation of fraternal society contracts.

#### *Insurance with Unlicensed Insurers.*

**78.** Notwithstanding anything in this Act contained, any person may insure property situated in Ontario against fire with an unlicensed insurer, and any property insured or to be insured under the provisions of this section may be inspected and any loss incurred in respect thereof adjusted; provided such insurance is effected outside of Ontario and without any solicitation whatsoever directly or indirectly on the part of the insurer. R.S.O. 1927, c. 222, s. 75. Insurance with unlicensed insurers. Proviso.

#### *Underwriters Agencies.*

**79.**—(1) A policy of insurance shall not be issued through any underwriters agency under its own name for an insurer, License.

unless such insurer is licensed to carry on business in Ontario and shall have obtained from the Superintendent a license to issue contracts of insurance through such underwriters agency.

Form of policy.

(2) Every policy of insurance issued through any such underwriters agency shall be in a form approved by the Superintendent, and shall bear upon its face the name and address of the insurer in a prominent and conspicuous manner, and the name of the underwriters agency shall not appear on the face of the policy except as a countersignature thereto.

Name on filing back.

(3) On no other part of the policy shall the name of the underwriters agency appear except that for identification purposes the words "issued through the..... Underwriters Agency" may be printed on the filing back of the policy, following the name of the insurer and in type not larger than half the depth of that used in printing such name.

Evidence of adoption of form of policy by insurer.

(4) Upon an application for a license under this section every such insurer shall furnish to the Superintendent evidence of its approval and adoption of the form of policy to be issued through the underwriters agency and of the authority of the underwriters agency or its agents to bind the said insurer.

Annual return.

(5) Every insurer licensed under this Act carrying on business or issuing any policy of insurance through any such underwriters agency shall file an annual return of the business transacted through the same underwriters agency in a form prescribed by the Superintendent. R.S.O. 1927, c. 222, s. 76.

### *General.*

Trafficking in life insurance policies prohibited.

**80.** Any person, other than an insurer or its duly authorized agent, who advertises or holds himself out as a purchaser of life insurance policies or of benefits thereunder, or who trafficks or trades in life insurance policies for the purpose of procuring the sale, surrender, transfer, assignment, pledge or hypothecation thereof to himself or any other person, shall be guilty of an offence. 1934, c. 22, s. 6, *part*.

Privileged information.

**81.** Any information, document, record, statement or thing made or disclosed to the Superintendent concerning any person licensed or applying for license under this Act, shall be absolutely privileged and shall not be used as evidence in any action or proceeding in any court brought by or on behalf of such person. 1934, c. 22, s. 6, *part*.

Insurer to file form of policy.

**82.—(1)** The Superintendent may require an insurer to file with him a copy of any form of policy or of the form of application for any policy issued or used by the insurer.



(2) The Superintendent shall report to the Minister any case where an insurer issues any policy or uses an application which, in the opinion of the Superintendent, is unfair, fraudulent or not in the public interest, and after hearing the insurer the Minister may, if he concurs in the report, order the Superintendent to prohibit the insurer from issuing or using such form of policy or application. Prohibition of certain policies.

(3) Any insurer which, after being so prohibited, issues any such policy or uses any such application, shall be guilty of an offence. 1933, c. 22, s. 11, *part*; 1935, c. 30, s. 5. Penalty.

### *Penalties.*

**83.**—(1) Unless otherwise provided every person guilty of any act or omission prohibited or required by this Act shall incur a penalty of not less than \$20 and not more than \$200 for every such offence. Penalty for offence.

(2) In addition, where an insurer violates the prohibitions or fails to comply with the requirements of this Act, the Lieutenant-Governor in Council may, upon the report of the Superintendent, suspend or cancel the license of the insurer. R.S.O. 1927, c. 222, s. 77 (1, 2). Suspension of license.

(3) Every insurer undertaking insurance or carrying on business in Ontario without holding a license to do so, shall incur a penalty of \$50 for each and every day during which the default continues. 1933, c. 22, s. 9. Penalties for carrying on business without a license.

(4) In any prosecution under this Act, whenever it appears that the defendant or the accused has done any act or been guilty of any omission in respect of which he would be liable to some penalty under this Act or the regulations made hereunder unless he had been duly licensed it shall be incumbent upon the defendant or the accused to prove that he is duly licensed. Burden of proof of license.

(5) In case of default in making any return required by this Act to be made within a limited time, the insurer or the person required by this Act to make the return shall, in addition to the penalty provided by subsection 1, incur a further penalty of \$100 for every month or part thereof during which such insurer or person neglects to file any return so required. Penalty for continued default.

(6) Any penalty imposed under this Act shall be recoverable under *The Summary Convictions Act* and when recovered shall be paid over to the Treasurer of Ontario for the use of the Province. R.S.O. 1927, c. 222, s. 77 (3-5). Application of Rev. Stat. c. 136.

*Fees and Regulations.*

Fees.

**84.**—(1) Until otherwise prescribed by the Lieutenant-Governor in Council, the fees or taxes payable to the Department by an insurer or other person shall be as mentioned in Schedule A.

When payable.

(2) Such fees or taxes shall be paid before a license or the renewal of a license is issued.

Regulations.

(3) The Lieutenant-Governor in Council may make regulations,—

(a) altering or amending the scale of fees or taxes provided for in Schedule A;

(b) extending the provisions of this Act or any of them to a system or class of insurance not particularly mentioned herein;

(c) generally for the better administration of the Department or the carrying out of the provisions of this Act.

Regulations to be laid before Assembly.

(4) Every Order-in-Council made under this section shall be laid before the Assembly forthwith if the Assembly is then in session, and if not then in session then within fifteen days of the opening of the next session. R.S.O. 1927, c. 222, s. 78.

## PART III.

## INSURANCE CONTRACTS IN ONTARIO.

Application.

**85.** Except where otherwise provided and where not inconsistent with other provisions of this Act, the provisions of this Part shall apply to every contract of insurance made in Ontario other than contracts of life and accident and sickness insurance. R.S.O. 1927, c. 222, s. 79.

Contracts to be deemed made in Ontario.

**86.** Where the subject matter of a contract of insurance is property in Ontario or an insurable interest of a person resident within Ontario, the contract of insurance, if signed, countersigned, issued or delivered in Ontario or committed to the post office or to any carrier, messenger or agent to be delivered or handed over to the insured, his assign or agent in Ontario, shall be deemed to evidence a contract made therein, and the contract shall be construed according to the law thereof, and all moneys payable under the contract shall be paid at the office of the chief officer or agent in Ontario of the insurer in lawful money of Canada. R.S.O. 1927, c. 222, s. 80.

**87.**—(1) All the terms and conditions of the contract of insurance shall be set out in full in the policy or by writing securely attached to it when issued, and unless so set out no term of the contract or condition, stipulation, warranty or proviso modifying or impairing its effect shall be valid or admissible in evidence to the prejudice of the insured or beneficiary.

Terms, etc.,  
of contracts  
invalid  
unless set  
out in full.

(2) Subsection 1 shall not apply to an alteration or modification of the contract agreed upon in writing by the insurer and the insured after the issue of the policy.

Exception.

(3) Whether the contract does or does not provide for its renewal, but it is renewed by a renewal receipt it shall be a sufficient compliance with subsection 1, if the terms and conditions of the contract were set out as provided by that subsection and the renewal receipt refers to the contract by its number or date.

Contents of  
renewal  
receipt.

(4) The proposal or application of the insured shall not as against him be deemed a part of or be considered with the contract of insurance except in so far as the court may determine that it contains a material misrepresentation by which the insurer was induced to enter into the contract.

What regard  
to be given  
to proposal.

(5) No contract of insurance shall contain or have endorsed upon it, or be made subject to, any term, condition, stipulation, warranty or proviso, providing that such contract shall be avoided by reason of any statement in the application therefor, or inducing the entering into of the contract by the insurer, unless such term, condition, stipulation, warranty or proviso is and is expressed to be limited to cases in which such statement is material to the contract, and no contract shall be avoided by reason of the inaccuracy of any such statement unless it is material to the contract.

Contract  
not to be  
invalidated  
by erroneous  
statement in  
application  
unless  
material.

(6) The question of materiality in any contract of insurance shall be a question of fact for the jury, or for the court if there is no jury, and no admission, term, condition, stipulation, warranty or proviso to the contrary contained in the application or proposal for insurance, or in the instrument of contract, or in any agreement or document relating thereto shall have any force or validity.

Materi-  
ality,—how  
decided.

(7) This section shall not apply to contracts of fire or automobile insurance. R.S.O. 1927, c. 222, s. 81.

Application.

**88.** Every insurer shall upon request furnish to the insured a true copy of his application or proposal for insurance. R.S.O. 1927, c. 222, s. 82.

Copy of  
proposal to  
be furnished  
to insured.



No contract shall be inconsistent with Act.

**89.**—(1) No insurer shall make a contract of insurance inconsistent with the provisions of this Act.

Rights of insured.

(2) Any act or omission of the insurer resulting in imperfect compliance with any of the provisions of this Act shall not render a contract invalid as against the insured. R.S.O. 1927, c. 222, s. 83.

Contents of policy.

**90.**—(1) Every policy shall contain the name and address of the insurer, the name, address, occupation or business of the insured, the name of the person to whom the insurance money is payable, the premium for the insurance, the subject matter of the insurance, the indemnity for which the insurer may become liable, the event on the happening of which such liability is to accrue, and the term of the insurance.

Application of section.

(2) This section shall not apply to contracts of guarantee insurance. 1930, c. 41, s. 5.

Right of claimant against insurer where execution against insured returned unsatisfied.

**91.**—(1) Where a person incurs a liability for injury or damage to the person or property of another, and is insured against such liability, and fails to satisfy a judgment awarding damages against him in respect of his liability, and an execution against him in respect thereof is returned unsatisfied, the person entitled to the damages may recover by action against the insurer the amount of the judgment up to the face value of the policy, but subject to the same equities as the insurer would have if the judgment had been satisfied.

Exception.

(2) This section shall not apply to motor vehicle liability policies. 1931, c. 49, s. 7.

Consolidation of actions.

**92.**—(1) Where several actions are brought for the recovery of money payable under a contract or contracts of insurance the court may consolidate or otherwise deal therewith so that there shall be but one action for and in respect of all the claims made in such actions. R.S.O. 1927, c. 222, s. 86 (1); 1933, c. 22, s. 10.

Where infants are entitled to insurance money.

(2) Where an action is brought to recover the share of one or more infants all the other infants entitled, or the trustees, executors, or guardians entitled to receive payment of the shares of such other infants, shall be made parties to the action, and the rights of all the infants shall be determined in one action.

Apportionment of sums directed to be paid.

(3) In all actions where several persons are interested in the insurance money the court or judge may apportion among the persons entitled any sum directed to be paid, and may give all necessary directions and relief.

(4) Where the person entitled to receive money due and payable under any contract of insurance, except insurance of the person, is domiciled or resides in a foreign jurisdiction and payment, valid according to the law of such jurisdiction, is made to such person, such payment shall be valid and effectual for all purposes. R.S.O. 1927, c. 222, s. 86 (2-4).

When payee is domiciled or resident abroad.

**93.**—(1) Where the contract of insurance has been delivered it shall be as binding on the insurer as if the premium had been paid, although it has not in fact been paid, and although delivered by an officer or agent of the insurer who had not authority to deliver it.

Effect of delivery of policy or receipt for premium.

(2) The insurer may sue for the unpaid premium and may deduct the same from the amount for which he may become liable under the policy or contract of insurance.

Right of insurer in respect of unpaid premium.

(3) Where the premium is paid by a cheque or a promissory note and the cheque is not paid on presentation or the promissory note at maturity the contract shall at the option of the insurer be voidable. R.S.O. 1927, c. 222, s. 87.

Where note or cheque for premium not paid.

**94.**—(1) Every insurer shall, immediately upon receipt of notice of any claim under a contract of insurance, forward to the insured or person to whom the insurance money is payable printed forms upon which to make the proof of loss required under the contract.

Insurer to furnish forms.

(2) Every insurer who neglects or refuses to comply with the provisions of subsection 1 shall be guilty of an offence. R.S.O. 1927, c. 222, s. 88.

Penalty.

**95.**—(1) No action shall be brought for the recovery of money payable under a contract of insurance until the expiration of sixty days after proof, in accordance with the provisions of the contract, of the loss or of the happening of the event upon which the insurance money is to become payable or such shorter period as may be prescribed by any enactment regulating the contracts of the insurer or as may be fixed by the contract of insurance.

When action may be brought under contract.

(2) After such sixty days or shorter period, any person entitled as beneficiary or by assignment or other derivative title to the insurance money, and having the right to receive the same and to give an effectual discharge therefor, may sue for the same in his own name, any rule, stipulation or condition to the contrary notwithstanding. R.S.O. 1927, c. 222, s. 89.

Beneficiary, etc., of contract may sue in his own name.

*Insurance as Collateral Security.*

Mortgagee  
not to receive  
commission  
from insurer.

**96.**—(1) A mortgagee shall not accept or be entitled to receive either directly or through his agent or employee, and no officer or employee of such mortgagee shall accept or receive any commission or other remuneration or benefit in consideration of effecting a contract of insurance or renewal thereof under which contract loss, if any, is payable to him as mortgagee.

Payment of  
commission  
prohibited.

(2) No insurer or agent or broker shall pay, allow or give any commission or other remuneration or benefit to a mortgagee or to any person in his employ or on his behalf, in consideration of effecting a contract of insurance or renewal thereof, under which contract loss, if any, is payable to him as mortgagee.

Offence.

(3) Any insurer or other person who contravenes the provisions of this section shall be guilty of an offence. R.S.O. 1927, c. 222, s. 90.

*Contracts of Guarantee Insurance.*

Contracts  
of title  
insurance.

**97.**—(1) Every contract of title insurance shall be in writing, and in addition to the other requirements prescribed by this Act shall expressly limit the liability of the insurer to a sum stated in the contract.

Questions as  
to validity  
of title.

(2) If any question arises as to the validity of the title insured, or as to the liability of the insurer, the insurer or the insured or any person entitled to proceed in right of either may by application have such question determined as provided in *The Vendors and Purchasers Act* in the case of vendors and purchasers. R.S.O. 1927, c. 222, s. 91.

Rev. Stat.  
c. 168.

*Resident Agent.*

Licensed  
agent to sign  
contract.

**98.**—(1) No licensed insurer shall undertake any contract of fire insurance upon property real or personal situate in Ontario or described in any contract as situate in Ontario, except after the contract, completed in accordance with section 105, has been signed or countersigned by a licensed agent who is a resident of Ontario and who is to receive the commission or some part thereof when the premium stipulated in the contract is paid. R.S.O. 1927, c. 222, s. 92 (1); 1929, c. 53, s. 11.

Exception  
as to insur-  
ance through  
agent in  
foreign  
jurisdiction.

(2) This section shall not apply to any such contract undertaken through an agent resident in any foreign jurisdiction wherein a contract of fire insurance on property situate or



described as situate in such jurisdiction is not, if made in Ontario, required to be approved, signed or countersigned by an agent resident in such foreign jurisdiction, or to any such contract covering rolling stock of a railroad corporation or property in transit which is in the possession or custody of a railroad corporation or other common carrier or to moveable property of any such common carrier used or employed in the business of a common carrier.

(3) "Insurer" in this section shall be deemed to mean and include only a joint stock insurance company, cash-mutual insurance corporation and any insurance company described in clause *f* of section 23. R.S.O. 1927, c. 222, s. 92 (2, 3). "Insurer,"  
meaning of.

### *General.*

**99.** Any licensed insurer which discriminates unfairly between risks within Ontario because of the race or religion of the insured shall be guilty of an offence. 1932, c. 24, s. 4. No racial  
or religious  
discrimina-  
tion per-  
missible.

**100.**—(1) Where an insurer cannot obtain a sufficient discharge for insurance money for which it admits liability, the insurer may apply to the court *ex parte* for an order for the payment thereof into court, and the court may order the payment into court to be made upon such terms as to costs and otherwise as the court directs, and may provide to what fund or name the amount shall be credited. Payment  
into court.

(2) The receipt of the registrar or other proper officer of the court shall be sufficient discharge to the insurer for the insurance money so paid into court, and the insurance money shall be dealt with according to the orders of the court. 1933, c. 22, s. 11, *part*. Discharge to  
insurer.

## PART IV.

### FIRE INSURANCE.

**101.** In this Part, unless the context otherwise requires,— Interpreta-  
tion.

1. "Agricultural property" includes dwelling-houses, stables, barns, sheds and outbuildings, and their contents, wagons, carriages, and other vehicles, saddles and harness, agricultural engines, implements, tools, instruments, appliances and machinery, household goods, wearing apparel, provisions, musical instruments, and libraries, livestock, growing crops, and crops severed from the land, fruit and ornamental trees, shrubs and plants, "Agricul-  
tural  
property."

and live or standing timber, being upon farms as farm property, and owned by members of the insurer in which the property is insured;

"Contract."

2. "Contract" means a contract of insurance against loss of or damage to property in Ontario or in transit therefrom or thereto, caused by fire, lightning or explosion, and includes a policy, certificate, interim receipt, renewal receipt or writing evidencing the contract, whether sealed or not, and a binding oral agreement;

"Property."

3. "Property" includes use and occupancy, rents, profits and charges where these are the subject matter of the insurance. R.S.O. 1927, c. 222, s. 93.

Application of Part.

**102.**—(1) This Part shall apply to fire insurance and to any insurer carrying on the business of fire insurance in Ontario.

Automobiles.

(2) This Part shall not apply to the insurance of automobiles against loss or damage by fire except when they are insured as provided in subsection 3 of section 103. R.S.O. 1927, c. 222, s. 94.

What rights may be insured against.

**103.**—(1) Every insurer licensed for the transaction of fire insurance may, within the limits and subject to the restrictions prescribed by the license, insure or reinsure any property in which the insured has an insurable interest against damage or loss by fire, lightning or explosion, whether the same happens by accident or by any other means except that of design on the part of the insured. R.S.O. 1927, c. 222, s. 95 (1).

Fire policy may cover other risks.

(2) An insurer licensed under this Act for the transaction of fire insurance may either by the same or by a separate contract insure the same risk against loss or damage arising from defects in or injuries to sprinklers or other fire extinguishing apparatus, or arising from tornado or windstorm, or from falling aircraft, earthquake, hail or civil commotion. R.S.O. 1927, c. 222, s. 95 (2); 1930, c. 41, s. 7; 1934, c. 22, s. 7.

Insurance of automobiles.

(3) An insurer licensed under this Act for the transaction of fire insurance may insure an automobile against loss or damage by fire under a fire insurance policy; provided that in the case of a purely mutual fire insurance corporation, incorporated or licensed in Ontario and carrying on business on the premium note plan, such automobile shall be specifically insured under a policy separate from that insuring other property. R.S.O. 1927, c. 222, s. 95 (3).

**104.** No contracts shall be made,—Term of  
contract.

(a) for a term exceeding one year in the case of a mercantile or manufacturing risk, whether on building or contents, or on other property or interest, on the cash plan; or

(b) for a term exceeding three years in all other cases;

but any contract may be renewed by the delivery of a renewal receipt or a new premium note. R.S.O. 1927, c. 222, s. 96.

**105.** Every policy shall contain the name of the insurer, the name of the insured, the name of the person or persons to whom the insurance money is payable, the premium or other consideration for the insurance, the subject matter of the insurance, the indemnity for which the insurer may become liable, the event on the happening of which such liability is to accrue and the term of the insurance. R.S.O. 1927, c. 222, s. 97.

Contents of  
policy.

**106.**—(1) The conditions set forth in this section shall be deemed to be part of every contract in force in Ontario, except contracts where the subject matter of the insurance is exclusively rents, charges or loss of profits and shall be printed on every policy with the heading "Statutory Conditions" and subject to the provisions of section 110, no variation, omission or addition thereto shall be binding on the insured, nor shall anything contained in the description of the subject matter of the insurance be effective in so far as it is inconsistent with, varies, modifies or avoids any such condition. R.S.O. 1927, c. 222, s. 98 (1); 1929, c. 53, s. 12 (1).

Statutory  
conditions.

(2) Where the subject matter of the insurance is exclusively rents, charges or loss of profits, the conditions set forth in this section shall not be required to be part of any such contract or to be printed therein. 1929, c. 53, s. 12 (2).

Loss of  
profits  
insurance.**STATUTORY CONDITIONS.****Misrepresentation**

1. If any person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance which is material to be made known to the insurer in order to enable it to judge of the risk to be undertaken, the contract shall be void as to the property in respect of which the misrepresentation or omission is made.

**Form of Contract**

2. After application for insurance, if the same is in writing, it shall be deemed that any policy sent to the insured is intended to be in accordance with the terms of the application, unless the insurer points out in writing the particulars wherein it differs from the application, in which case the insured may, within two weeks from the receipt of the notification, reject the policy.



**Property Not Insured**

3. Unless otherwise specifically stated in the policy, money, books of account, securities for money, evidences of debt or title, and automobiles, tractors and other motor vehicles, are not insured.

**Risks Not Covered**

4. Unless otherwise specifically stated in the policy, the insurer is not liable for the losses following, that is to say:

- (a) for loss of or damage to property owned by any person other than the insured, unless the interest of the insured therein is stated in the policy;
- (b) for loss or damage caused by invasion, insurrection, riot, civil commotion, military or usurped power;
- (c) for loss due to the want, within the knowledge of the insured, of good and substantial chimneys; or caused by ashes or embers being deposited, with the knowledge and consent of the insured, in wooden vessels; or by stoves or stove-pipes being, to the knowledge of the insured, in an unsafe condition or improperly secured; or
- (d) for loss of or damage to goods while undergoing any process in or by which the application of fire heat is necessary.

**Risks Not Covered Except by Special Permission**

5. Unless permission is given by the policy or endorsed thereon, the insurer shall not be liable for loss or damage occurring:

**Repairs**

(a) to buildings or their contents during alteration or repair of the buildings and in consequence thereof; fifteen days being allowed in each year for incidental alterations or repairs without such permission;

**Inflammable Substances**

(b) while illuminating gas or vapour is generated by the insured, or to his knowledge, in the building insured or which contains the property insured, or while there is stored or kept therein by the insured, or to his knowledge, by any person under his control, petroleum or any liquid product thereof, coal oil, camphene, gasoline, burning fluid, benzine, naphtha, or any of their constituent parts (refined oil for lighting, heating or cooking purposes only, not exceeding five gallons in quantity, gasoline, if contained in a tightly closed metallic can free from leaks and not exceeding one quart in quantity, or lubricating oil not being crude petroleum nor oil of less specific gravity than is required by law for illuminating purposes, not exceeding five gallons in quantity, excepted), or more than twenty-five pounds weight of gunpowder, dynamite or similar explosives;

**Change of Interest**

(c) after the interest of the insured in the subject-matter of the insurance is assigned, but this condition is not to apply to an authorized assignment under the *Bankruptcy Act* or to change of title by succession, by operation of law, or by death;

**Vacancy**

(d) when the building insured or containing the property insured is, to the knowledge of the insured, vacant or unoccupied for more than thirty consecutive days, or being a manufacturing establishment, ceases to be operated and continues out of operation for more than thirty consecutive days.

**Explosion and Lightning**

6. The insurer will make good loss or damage caused by lightning or by the explosion of coal or natural gas in a building not forming part of gas works, whether fire ensues therefrom or not; and loss or damage by fire caused by any other explosion; but, if electrical appliances or devices are insured, any loss or damage to them caused by lightning or other electrical currents is excluded and the insurer shall be liable only for such loss or damage to them as may occur from fire originating outside the article itself.

**Material  
Change**

7. Any change material to the risk and within the control and knowledge of the insured shall avoid the policy as to the part affected thereby, unless the change is promptly notified in writing to the insurer or its local agent, and the insurer when so notified may return the unearned portion, if any, of the premium paid and cancel the policy, or may notify the insured in writing that, if he desires the policy to continue in force, he must within fifteen days of the receipt of the notice pay to the insurer an additional premium, and in default of such payment the policy shall no longer be in force and the insurer shall return the unearned portion, if any, of the premium paid.

**Other  
Insurance**

8.—(a) If the insured has at the date of this policy any other insurance on property covered thereby which is not disclosed to the insurer, or hereafter effects any other insurance thereon without the written assent of the insurer, he shall not be entitled to recover more than sixty per centum of the loss in respect of such property; but if for any fraudulent purpose the insured does not disclose such other insurance, this policy shall be void.

(b) The insurer shall be deemed to have assented to such other insurance unless it dissents by notice in writing within two weeks after notice thereof.

(c) In the event of there being any other insurance on property herein described at the time of the happening of a loss in respect thereof, the insurer shall be liable only for payment of a rateable proportion of the loss or a rateable proportion of such amounts as the insured shall be entitled to recover under clause a of this condition.

**Mortgagees and  
Other Payees**

9. Where the loss, if any, under a policy has, with the consent of the insurer, been made payable to some person other than the insured, the policy shall not be cancelled or altered by the insurer to the prejudice of such person without reasonable notice to him.

**Termination  
of Insurance**

10.—(1) The insurance may be terminated:

(a) subject to the provisions of condition 9, by the insurer giving to the insured at any time fifteen days' notice of cancellation by registered mail, or five days' notice of cancellation personally delivered, and, if the insurance is on the cash plan, refunding the excess of premium actually paid by the insured beyond the *pro rata* premium for the expired time;

(b) if on the cash plan, by the insured giving written notice of termination to the insurer, in which case the insurer shall upon surrender of this policy, refund the excess of premium actually paid by the insured beyond the customary short rate for the expired time.

(2) Repayment of the excess premium may be made by money, post office order or postal note or by cheque payable at par and certified by a chartered bank doing business in the Province. If the notice is given by registered letter, such repayment shall accompany the notice, and in such case the fifteen days mentioned in clause a of this condition shall commence to run from the day following the receipt of the registered letter at the post office to which it is addressed.

**Salvage**

11. After any loss or damage to insured property, it shall be the duty of the insured, when and as soon as practicable, to secure the insured property from further damage, and to separate as far as reasonably may be the damaged from the undamaged property, and to notify the insurer of the separation.

**Insurance on  
Goods Moved**

12. If any of the insured property is necessarily removed to prevent damage or further damage thereto, that part of the insurance under this policy which exceeds the amount of the insurer's liability for any loss already incurred

shall for seven days only, or for the unexpired term if less than seven days, cover the property removed and any property remaining in the original location in the proportions which the value of the property in the respective locations bears to the value of the property in them all, and the insurer will contribute *pro rata* towards any loss or expense connected with such act of salvage, according to the respective interests of the parties.

**Entry, Control, Abandonment** 13. After any loss or damage to insured property, the insurer shall have an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and, after the insured has secured the property, a further right of access and entry sufficient to enable them to make appraisement or particular estimate of the loss or damage, but the insurer shall not be entitled to the control or possession of the insured property, or the remains or salvage thereof, unless it accepts a part thereof at its agreed value or its value as ascertained according to condition 17 or undertakes replacement under condition 19, and without the consent of the insurer there can be no abandonment to it of insured property.

**Who to Make Proof of Loss** 14. Proof of loss must be made by the insured, although the loss is payable to a third person, except that, in case of the absence of the insured, or his inability to make the same, proof may be made by his agent, such absence or inability being satisfactorily accounted for, or in the like case or if the insured refuse to do so, by a person to whom any part of the insurance money is payable.

**Requirements After Loss** 15. Any person entitled to claim under this policy shall:

- (a) forthwith after loss give notice in writing to the insurer;
- (b) deliver, as soon thereafter as practicable, a particular account of the loss;
- (c) furnish therewith a statutory declaration declaring:
  - (i) that the account is just and true;
  - (ii) when and how the loss occurred, and if caused by fire, how the fire originated, so far as the declarant knows or believes;
  - (iii) that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured;
  - (iv) the amount of other insurances and names of other insurers;
  - (v) all liens and incumbrances on the property insured;
  - (vi) the place where the property insured, if moveable, was deposited at the time of the fire;
- (d) if required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers verified by statutory declaration, and furnish a copy of the written portion of any other policy. The evidence furnished under this clause shall not be considered proofs of loss within the meaning of conditions 18 and 19.

**Fraud** 16. Any fraud or wilfully false statement in a statutory declaration, in relation to any of the above particulars, shall vitiate the claim of the person making the declaration.

**Arbitration** 17. If any difference arises as to the value of the property insured, the property saved, or the amount of the loss, such value and amount and the proportion thereof, if any, to be paid by the insurer shall, whether the right to recover on the policy is disputed or not, and independently of all other questions, be submitted to the arbitration of some person to be chosen by both parties, or if they cannot agree on one person, then to two persons, one to be chosen by the insured and the other by the insurer, and a third to be appointed by the



persons so chosen, or on their failing to agree, then by a judge of the county or district court of the county or district in which the loss has happened; and such reference shall be subject to the provision of *The Arbitration Act*; and the award shall, if the insurer is in other respects liable, be conclusive as to the amount of the loss and the proportion to be paid by the insurer; where the full amount of the claim is awarded the costs shall follow the event; and in other cases all questions of costs shall be in the discretion of the arbitrators.

**When Loss Payable**

18. The loss shall be payable within sixty days after completion of the proofs of loss, unless the contract provides for a shorter period.

**Replacement**

19. The insurer, instead of making payment, may repair, rebuild or replace the property damaged or lost, giving written notice of its intention so to do within fifteen days after receipt of the proofs of loss. In such event the insurer shall commence to so repair, rebuild or replace the property within thirty days after receipt of the proofs of loss and shall thereafter proceed with all due diligence to the completion thereof.

**Action**

20. Every action or proceeding against the insurer for the recovery of any claim under or by virtue of this policy shall be absolutely barred unless commenced within one year next after the loss or damage occurs.

**Agency**

21. Any officer or agent of the insurer who assumes on behalf of the insurer to enter into a written agreement relating to any matter connected with the insurance shall be deemed *prima facie* to be the agent of the insurer for the purpose.

**Waiver of Condition**

22. No condition of this policy shall be deemed to have been waived by the insurer, either in whole or in part, unless the waiver is clearly expressed in writing signed by an agent of the insurer.

**Notice**

23. Any written notice to the insurer may be delivered at or sent by registered post to the chief agency or head office of the insurer in the Province or delivered or so sent to any authorized agent of the insurer therein. Written notice may be given to the insured by letter personally delivered to him or by registered letter addressed to him at his last post office address notified to the insurer, or, where no address is notified and the address is not known, addressed to him at the post office of the agency, if any, from which the application was received.

**Subrogation**

24. The insurer may require from the insured an assignment of all right of recovery against any other party for loss or damage to the extent that payment therefor is made by the insurer.

R.S.O. 1927, c. 222, s. 98, cons.

**107.**—(1) A policy may contain a co-insurance clause, in which case it shall have printed or stamped upon its face in conspicuous type and in red ink the words "This policy contains a co-insurance clause," and unless those words are so printed or stamped such clause shall not be binding upon the insured, and such clause shall not be deemed a variation or addition to the statutory conditions. R.S.O. 1927, c. 222, s. 99 (1).

Co-insurance clause.

(2) A policy may contain a limitation of liability clause, or clauses,—

Limitation of liability clauses.

(a) to the effect that the insurer shall only be liable for a specified proportion of any loss which may be

sustained to any of the property covered by the policy; or

- (b) to the effect that the insurer shall not be liable for more than a specified percentage of the value of any of the said property at the time of the loss; or
- (c) in the event of there being any other insurance covering any of the property, to the effect,—
  - (i) that the insurer shall only be liable for a rateable proportion of a specified percentage or proportion of any loss to any of the property; or
  - (ii) that the insurer shall not be liable for more than a rateable proportion of a specified percentage of the value of any of the property at the time of the loss; or
- (d) to the effect that the insurer shall only be liable for a specified percentage of any loss, or in the event of there being other insurance covering any of the property, for a specified percentage of its rateable proportion of any loss, but upon the fulfillment by the insured of certain specified stipulations or agreements, shall be liable for a further specified percentage of the loss, or in the event of there being other insurance covering any of the property, for a further specified percentage of its rateable percentage of the loss;

and every policy which contains any clause to the above effect shall have printed or stamped on the face of it, in conspicuous type and in red ink, the following words: "This policy contains a limitation of liability clause, or clauses," and no such clause shall be deemed to be a variation of any statutory condition. 1934, c. 22, s. 8.

Use of  
red ink.

**108.** No red ink shall be used on a policy except for the name, address and emblem of the insurer, the policy number and for the purposes mentioned in this Act. R.S.O. 1927, c. 222, s. 100; 1933, c. 22, s. 12.

Relief from  
forfeiture.

**109.** In any case where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured and a consequent forfeiture or avoidance of the insurance, in whole or in part, and the court deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as may seem just. R.S.O. 1927, c. 222, s. 101.

**110.** Where the rate of premium is affected or modified by the user, condition, location, or maintenance of the insured property, the policy may contain a clause not inconsistent with any statutory condition setting forth any stipulation in respect of such user, condition, location or maintenance, and such clause shall not be deemed a variation of any statutory condition, and such clause shall be binding on the insured only in so far as it is held by the court before which a question relating thereto is tried to be just and reasonable. R.S.O. 1927, c. 222, s. 102.

*Premium Notes and Assessments.*

**111.**—(1) Sections 112 to 127 shall apply only to mutual and cash mutual fire insurance corporations and, saving sections 113, 114 and 123 to mutual livestock and mutual weather insurance corporations which carry on business on the premium note plan. R.S.O. 1927, c. 222, s. 103; 1937, c. 72, s. 29 (2).

(2) No licensed insurer shall carry on, on the premium note plan, any class of insurance other than fire, livestock and weather insurance.

(3) Sections 112 to 127 shall apply only to contracts made in Ontario. 1931, c. 49, s. 8.

**112.**—(1) The insurer may accept the premium note of the insured for insurance and may undertake contracts in consideration thereof and such notes shall be subject to cash payments and assessments for the losses, expenses and reserve of the insurer in the manner hereinafter provided.

(2) The premium note shall be in the form prescribed by Schedule B to this Act.

(3) Nothing but the notice provided by section 124 shall be written upon the same paper upon which the premium note is written, and a violation of this section shall render the premium note void. R.S.O. 1927, c. 222, s. 104.

**113.** The rate to be charged or taken by way of premium note for insuring agricultural property, other than brick, stone or concrete dwellings, shall be not less than \$3 for three years for every one hundred dollars of insurance, and the minimum rate upon other property may be increased or decreased relatively with the risk according to the nature of the property. R.S.O. 1927, c. 222, s. 105.



Minimum  
cash  
payment.

**114.**—(1) Subject to the provisions of subsection 3, the directors shall require at the time of the application for insurance of agricultural property other than brick, stone or concrete dwellings, a cash payment on the premium note of not less than eighty cents for three years for every one hundred dollars of insurance and may require a larger or smaller cash payment at the time of the application for the insurance of other property; provided, that not more than sixty per centum of any premium note shall be paid in cash at the time of the application for or of effecting the insurance. R.S.O. 1927, c. 222, s. 106 (1).

Reduction  
of, by  
directors.

(2) The cash payment required at the time of the application for insurance of agricultural property, other than brick, stone or concrete dwellings, may be reduced with the approval of the Superintendent by the directors when and so long as the surplus of the insurer is not less than twenty-five cents for every one hundred dollars of the total net amount at risk. R.S.O. 1927, c. 222, s. 106 (2); 1937, c. 72, s. 29 (3).

Payment  
by annual  
instalments.

(3) Instead of requiring the cash payment to be paid in full at the time of the application for insurance, the directors may make the cash payment payable in three equal annual instalments of not less than thirty cents each for every one hundred dollars of insurance on agricultural property other than brick, stone or concrete dwellings, and *pro rata* on other property, the first of which shall be due and payable at the time of the application for insurance and the remaining instalments shall be respectively due and payable on the first day of each subsequent year of the term of insurance. R.S.O. 1927, c. 222, s. 106 (3).

"Surplus."

(4) "Surplus" as used in this section shall mean the assets of the insurer other than the premium note residue after deducting therefrom all liabilities of the insurer (other than contingent liabilities on unmatured contracts) and the proportion of cash payments and instalments thereof paid in advance applicable to unexpired policy contracts calculated as required by subsection 5 of section 73. R.S.O. 1927, c. 222, s. 106 (4); 1932, c. 24, s. 5; 1937, c. 72, s. 29 (4).

Refunds  
from  
surplus.

(5) When on the 31st day of December the surplus of an insurer in terms of cents per one hundred dollars of net insurance in force is not less than the amount set out in the following table, or, in the case of an insurer with less than two million dollars of net insurance in force, such other amount as shall be approved by the Superintendent, the directors may within one month thereafter declare a refund, not exceeding in total amount the increase in surplus of such insurer during the preceding year, which shall be credited on the cash payment

or instalment next due on each policy or renewal thereof then in force; provided that the refund on each policy shall be in the same ratio to the total refund as the face value of the premium note is to the total face value of all premium notes in force at said year end, and provided further that the by-laws of the insurer require that each new member shall pay at the time of application a membership fee of at least twenty cents per one hundred dollars of insurance, or that refunds shall be payable only to members insured continuously during the five years preceding the refund.

TABLE.

When the total net amount at risk is greater than	\$25,000,000—	\$0.60
When the total net amount at risk is greater than	10,000,000—	.70
When the total net amount at risk is greater than	5,000,000—	.80
When the total net amount at risk is greater than	2,000,000—	1.00

(6) Subsection 5 shall not apply to cash-mutual fire insurance corporations, or to an insurer the surplus of which as defined by subsection 4, exceeds ten per centum of the total amount at risk. 1937, c. 72, s. 29 (5). Application of subs. 5.

**115.**—(1) No insurer shall make a contract on the premium note plan covering agricultural property, for a term exceeding twelve months, without a written application therefor signed by the applicant, or, in case of the absence of the applicant or his inability to make the application, by his agent other than the agent of the insurer, or by a person having an insurable interest in the property. Written application required.

(2) Every written application shall set forth the name, address and occupation of the applicant, the description, location and occupancy of the property to be insured, its value, particulars of any mortgage, lien or other incumbrance thereon, the purpose for which and the location in which any moveable property is deposited or used, particulars of any claims made by the applicant in respect of insured loss or damage by fire, whether any insurer has cancelled any fire insurance policy of, or refused fire insurance to the applicant, particulars of any other fire insurance on the same property, and such other information as the insurer or the Superintendent may require. 1931, c. 49, s. 9. Contents of application.

**116.**—(1) The cash payment or instalments thereof required to be paid by section 114 at the time of the application for insurance shall be applied in part payment of the premium note, and the premium note residue shall be subject to assessments by the directors, with the approval of the Superintendent, in such sums and at such times as they may determine for reserve and for losses and expenses incurred during Assessments.

the currency of the policies for which such notes were given. R.S.O. 1927, c. 222, s. 107 (1); 1933, c. 22, s. 13.

When due.

(2) Every assessment shall be due and payable within thirty days after notice stating the amount and date of the assessment, has been given in the manner hereinafter provided. R.S.O. 1927, c. 222, s. 107 (2).

How fixed.

(3) An assessment shall be fixed as a percentage of the face amount of the premium note, and all assessments shall be payable on the same date and at the same rate per centum. 1934, c. 22, s. 9.

Penalty for default in payments.

**117.**—(1) Default in making the cash payment or any instalment thereof within thirty days after notice of it becoming due, or of its non-payment when due, has been given in the manner hereinafter provided, or default in paying any assessment authorized by the directors within thirty days after notice has been given as required by subsection 2 of section 116, shall, unless the directors determine otherwise, render the contract of insurance null and void as to all claims for loss occurring during the time of default; but subject thereto the contract shall be revived if and when the cash payment or instalments thereof or the assessment so in default has been paid.

Liability of insured.

(2) Nothing herein contained shall relieve the insured of his liability to pay the cash payment and all assessments lawfully imposed by the directors during the full term of the policy or within forty days thereafter in respect of which the prescribed notice has been given, or prejudice the right of the insurer after giving the required notice to sue for and recover the same with the costs of the suit.

Evidence of amount due insurer.

(3) Where an action is brought to recover an assessment the certificate of the secretary of the insurer specifying the assessment and the amount due on the note in respect of such assessment shall be *prima facie* evidence thereof in any court. R.S.O. 1927, c. 222, s. 108.

Notice.

**118.**—(1) The notices required to be given by sections 116 and 117 shall be sufficient if mailed to the person by whom the cash payment, or any instalment thereof, or the assessment as the case may be, is payable, addressed to his post office address given in the original application, or otherwise given in writing, to the insurer, and if it states the register number of the contract, the time when, and the place where, the amount is payable.

Notice to contain s. 117, subs. 1.

(2) Subsection 1 of section 117 shall be printed in full upon the face of all such notices.



(3) If the property insured has been mortgaged and the insurer has assented to the mortgage the notices respecting assessments and cash payments herein required to be mailed to the payee shall also be mailed to the mortgagee if his post office address is known to the insurer, and if notice is not so given the contract shall be deemed to be valid and subsisting as to the interest of the mortgagee. R.S.O. 1927, c. 222, s. 109.

Notice to mortgagee.

**119.** Forty days after the expiration of the term of insurance or after the insured has sustained a total loss in respect of the property insured the premium note given for the term shall be null and void except as to the cash payment or instalments thereof remaining unpaid and as to lawful assessments of which the prescribed written notice has been given to the maker of the premium note during the currency of the policy or within such period of forty days, and on the expiration of such period the premium note shall upon application therefor be surrendered to the maker, provided all liabilities with which the premium note is chargeable have been paid. R.S.O. 1927, c. 222, s. 110.

Return of premium note on termination of insurance.

**120.** If there is a loss on property insured the directors may retain out of the insurance money the cash payment or any instalments thereof, or any lawful assessment due and payable and remaining unpaid by the insured. R.S.O. 1927, c. 222, s. 111.

Assessments may be retained out of insurance money.

**121.** The directors may reinsure any risk undertaken on the premium note plan with any other insurer of the same class, and may authorize the execution of a premium note by the proper officer of the insurer, and the insurer shall in respect of such reinsurance contract have the same rights and be subject to the same obligations as a member of the reinsurer. R.S.O. 1927, c. 222, s. 112.

Reinsurance.

**122.**—(1) Subject to the approval of the Superintendent, the directors of any insurer licensed to transact insurance on the premium note plan may enter into a general reinsurance agreement with any other insurer of the same class for the reinsurance of risks on such terms and conditions as may be agreed upon. R.S.O. 1927, c. 222, s. 113 (1).

General reinsurance agreement.

(2) The agreement authorized by subsection 1 may dispense with the issue of policies and the execution of premium notes and may provide for reinsurance on the cash plan. R.S.O. 1927, c. 222, s. 113 (2); 1933, c. 22, s. 14.

Policies and notes unnecessary.

(3) Every such agreement shall be in writing and under the corporate seals of the parties thereto. R.S.O. 1927, c. 222, s. 113 (3).

Writing and seals.

Compulsory  
reinsurance.

**123.**—(1) No insurer shall undertake any risk on the premium note plan which is subject to the hazard of a single fire for an amount greater than that allowed by the following table unless such risk is reinsured to an amount sufficient to reduce the net liability of the insurer to the amount authorized in such table:—

TABLE.

When the total amount at risk is less than \$4,000,000.....	\$3,000
When the total amount at risk is less than 5,000,000.....	4,000
When the total amount at risk is more than 5,000,000.....	5,000

Meaning  
of risk  
subject to  
hazard of  
single fire.

(2) A risk subject to the hazard of a single fire shall be deemed to include, in the case of agricultural property, other than brick, stone or concrete dwellings, the total amount at risk on barns, outbuildings, contents, machinery, and all other items in connection therewith except livestock or a dwelling distant more than 80 feet from any other insured farm building, and in all other cases the total amount at risk on buildings or their contents where such buildings are distant less than 80 feet from each other.

Penalty for  
failure to  
reinsure.

(3) Where an insurer fails to reinsure any risk which is subject to the hazard of a single fire and for an amount greater than that allowed by the table set out in subsection 1, the Minister, on the report of the Superintendent, may suspend or cancel the license of the insurer.

Rights of  
insured.

(4) Nothing in this section shall render a contract invalid as against the insured. R.S.O. 1927, c. 222, s. 114 (1-4).

Exception.

(5) This section shall not apply to an insurer which is restricted by its license to the insurance against fire and lightning of buildings, plant and stock of millers and grain dealers used in connection with the grain trade and the dwellings, outbuildings and contents thereof owned by such millers and grain dealers or their employees when and so long as its surplus as defined by subsection 4 of section 114 exceeds ten per centum of the total amount at risk. 1937, c. 72, s. 29 (6).

Actions in  
division  
court where  
brought.

**124.** Any action upon any premium note or for an assessment thereon cognizable in a division court may be entered, tried and determined in the court for the division wherein the head office or any agency of the insurer is located, where and where only within the body of such note, or across the face thereof, there was at the time of the making of it printed in conspicuous type, or in ink of a colour different from any other in or on such note, the words following: "Any action which may be brought or commenced in a division court in respect or on account of this note, or any sum to be assessed thereon

may be brought and commenced against the maker hereof in the division court for the division wherein the head office or any agency of the insurer is located." R.S.O. 1927, c. 222, s. 115.

**125.** No premium note shall create a lien upon the land on which the insured property is situate. R.S.O. 1927, c. 222, s. 116. Note not to be a lien on land.

**126.**—(1) An insurer licensed to transact cash-mutual fire insurance may effect insurance upon the cash plan, for a period not exceeding three years, on risks other than mercantile and manufacturing, and for one year or less on any other class of property, but the amount of premiums received on cash insurances in any one calendar year shall not exceed four times the amount which the insurer has then on deposit with the Minister. Powers of incorporated insurers to insure on the cash principle.

(2) If at any time the amount of such premiums exceeds the amount authorized by subsection 1 the insurer shall at once increase its deposit to an amount sufficient to warrant the excess, and in default the Minister may suspend or cancel its license. When deposit must be increased.

(3) All the property and assets of the insurer, including premium notes, shall be liable for all losses under contracts of insurance for cash premiums. R.S.O. 1927, c. 222, s. 117. What funds liable for losses.

**127.**—(1) No execution shall issue against a mutual or cash-mutual insurer upon a judgment until after the expiration of sixty days from the recovery thereof, but this section shall not apply to a judgment recovered on a contract of insurance where more than sixty per centum of the premium, or premium note, was paid in cash at the time of the insurance or the application therefor. When execution upon judgment against insurer.

(2) A judge of the Supreme Court or the master in chambers, after the recovery of a judgment against the insurer, upon the application of the judgment creditor and upon notice to the insurer, may inquire into the facts, and if he finds that more than sixty per centum of the premium note was paid in cash at the time of the insurance, or upon the application therefor, he may direct that execution be issued forthwith upon such judgment. R.S.O. 1927, c. 222, s. 118. When order may be made for issue.

## PART V.

### LIFE INSURANCE.

**128.** In this Part, unless the context otherwise requires,— Interpretation.

1. "Adopted child" means a person who has been adopted by another person as his child and by "Adopted child."



reason thereof is entitled under the law of the place of adoption to inherit real property from that other person, if he dies intestate;

"Adopting parent."

2. "Adopting parent" means a person who has adopted another person as his child and by reason thereof is entitled under the law of the place of adoption to inherit real property from that other person, if he dies intestate;

"Beneficiary."

3. "Beneficiary" means a person designated or appointed as one to whom or for whose benefit insurance money is to be payable;

"Child" and "issue."

4. "Child" and "issue" include an adopted child;

"Contract,"  
"Contract of insurance,"  
"Contract of life insurance."

5. "Contract," "contract of insurance" and "contract of life insurance" mean a contract of life insurance and include any other contract which an insurer may issue under the authority of a license to transact life insurance;

"Court."

6. "Court" means the Supreme Court or a judge thereof;

"Declaration."

7. "Declaration" means an instrument in writing signed by the insured, attached to or endorsed on a policy, or an instrument in writing, signed by the insured in any way identifying the policy or describing the subject of the declaration as the insurance or insurance fund or a part thereof or as the policy or policies of the insured or using language of like import, by which the insured designates or appoints a beneficiary or beneficiaries, or alters or revokes the designation or appointment of a beneficiary or beneficiaries, or apports or reapports, or appropriates or reappropriates, insurance money between or among beneficiaries;

"Foreign jurisdiction."

8. "Foreign jurisdiction" means any jurisdiction other than the Province;

"Fraternal society."

9. "Fraternal society" means a society, order or association incorporated for the purpose of making with its members only and not for profit contracts of life insurance under which benefits may be paid only to its members or their beneficiaries, in accordance with its constitution and laws and the provisions of this Act;

"Instrument in writing."

10. "Instrument in writing" includes a last will;

"Insurance."

11. "Insurance" means life insurance;

12. "Insurance money" includes all insurance money, <sup>"Insurance money."</sup> benefits, surplus, profits, dividends, bonuses and annuities payable by an insurer under a contract of insurance;
13. "Insured" means the person who makes a contract <sup>"Insured."</sup> with an insurer and, if the context so requires, includes the person whose life is insured;
14. "Insurer" includes any corporation, or any society <sup>"Insurer."</sup> or association, incorporated or unincorporated, any fraternal society or any person or partnership, or any underwriter or group of underwriters, that undertakes or effects, or agrees or offers to undertake or effect, a contract of insurance;
15. "Judge" means a judge of the Court; <sup>"Judge."</sup>
16. "Parent," "father" and "mother" include an <sup>"Parent,"</sup> adopting parent of the same sex respectively; <sup>"father,"</sup> <sup>"mother."</sup>
17. "Person" includes firm, partnership, corporation <sup>"Person."</sup> and unincorporated society or association;
18. "Premium" means the single or periodical payment <sup>"Premium."</sup> to be made for the insurance, and includes dues and assessments. 1935, c. 29, s. 2.

**129.**—(1) Notwithstanding any agreement, condition or <sup>Application.</sup> stipulation to the contrary, this Part shall apply to every contract of life insurance made in the Province after the 1st day of January, 1925, and any term in any such contract inconsistent with the provisions of this Part shall be null and void. R.S.O. 1927, c. 222, s. 120 (1).

(2) This Part shall apply to every contract of life insurance made in the Province before the 1st day of January, 1925, where the maturity of the contract had not occurred before that date. 1935, c. 29, s. 3.

(3) This Part shall apply to every other contract of life insurance made after the 1st day of January, 1925, where the contract provides that this Part shall apply or that the contract shall be construed or governed by the law of the Province.

(4) Where this Part applies to any contract, the rights and status of beneficiaries and the powers of the insured with regard to the designation or appointment of beneficiaries and the apportionment of the insurance money shall be governed by the provisions of this Part, whether or not the insured or any of the beneficiaries is domiciled in the Province at the time at which the contract is made, or at any time subsequent thereto. R.S.O. 1927, c. 222, s. 120 (3, 4).

When contract deemed to be made in the Province.

**130.** A contract is deemed to be made in the Province,—

- (a) if the place of residence of the insured is stated in the application or the policy to be in the Province; or
- (b) if neither the application nor the policy contains a statement as to the place of residence of the insured, but the actual place of residence of the insured is within the Province at the time of the making of the contract. R.S.O. 1927, c. 222, s. 121.

*The Contract of Insurance.*

Policy to evidence a contract.

**131.** Every contract of insurance shall be evidenced by an instrument in writing called, in this Part, a policy. R.S.O. 1927, c. 222, s. 122.

Contents of policy.

**132.**—(1) Every policy issued after the 1st day of January, 1925, by an insurer shall state the name or sufficient designation of the insured, of the person whose life is insured, and of the beneficiary, the insurance money payable, the manner of payment, the premium, and the facts which determine the maturity of the contract. R.S.O. 1927, c. 222, s. 123 (1); 1935, c. 29, s. 4 (1).

(2) Every policy shall state the period of grace within which the premiums may be paid and the terms and conditions upon which the policy may, if it shall lapse, be reinstated, and shall indicate the amount (if any), of cash surrender, or loan value and the options (if any), of the insured as to paid up or extended insurance respectively provided by the policy.

(3) Every policy shall further indicate whether or not it will participate in any surplus or profits which may be declared.

(4) Every policy which includes disability insurance shall further state what notice of the disablement of the insured shall be given to the insurer.

(5) This section shall not apply to a contract of insurance made by a fraternal society. 1935, c. 29, s. 4 (3).

Payment of policy not exceeding \$2,000.

**133.** Where the amount of insurance money, exclusive of dividends and bonus, does not exceed \$2,000, the policy, notwithstanding that it is expressed to be payable to a named or designated beneficiary, may provide that the insurance money may be paid to any relative by blood or connection by marriage of the insured or any other person appearing to the insurer to be equitably entitled to the same by reason of having incurred expense for the maintenance,



medical attendance or burial of the insured or to have a claim against the estate of the insured in relation thereto. R.S.O. 1927, c. 222, s. 123 (2); 1935, c. 29, s. 4 (2).

**134.**—(1) Except in the case of a contract made with a fraternal society, no term or condition of a contract of insurance which is not set out in full in the policy or in a document or documents in writing attached to it, when issued, shall be valid or admissible in evidence to the prejudice of the insured or a beneficiary. Invalidity of terms not set out in policy.

(2) Subsection 1 shall not apply to an alteration or modification of the contract agreed upon in writing by the insurer and the insured after the issue of the policy. R.S.O. 1927, c. 222, s. 124 (1, 2). Subsequent alterations.

(3) In the case of a contract of insurance made by a fraternal society, the policy, the Act or instrument of incorporation of the society, its constitution and laws and the amendments validly made thereto, and the application for the contract and medical examination of the applicant as signed by him shall constitute the contract between the society and its member. 1935, c. 29, s. 5. Contract of fraternal society.

**135.**—(1) The applicant for a contract and the person whose life is to be insured shall each disclose to the insurer in the application for the contract, on the medical examination (if any), or in any statements or answers furnished in lieu of a medical examination every fact within his knowledge which is material to the contract, and a failure to disclose or misrepresentation of any such fact by either person shall render the contract voidable at the instance of the insurer. Disclosure and misrepresentation by insured.

(2) The statements made by the insured, or the person whose life is insured, in the application, on the medical examination (if any), or in any statements or answers furnished in lieu of a medical examination other than fraudulent statements or statements erroneous as to age, shall be deemed to be true and incontestable after the contract has been in force for two years during the life time of the person whose life is insured, but this provision shall not apply with respect to disability insurance or double indemnity insurance. 1935, c. 29, s. 6, *part*. Incontestability of statements.

**136.** A failure to disclose or misrepresentation of a fact material to the contract by the insurer shall render the contract voidable at the instance of the insured; provided that in the absence of fraud the contract shall not by reason of such failure to disclose or misrepresentation be voidable after the contract has been in force for two years during the lifetime of the person whose life is insured. 1935, c. 29, s. 6, *part*. Disclosure and misrepresentation by insurer.

Materiality. **137.** The question of materiality shall be one of fact. 1935, c. 29, s. 6, *part.*

Misstatement of age. **138.**—(1) Where the age of the person whose life is insured is understated in the application, the insurance money shall be reduced to the amount which would have been payable in respect of the premium stated in the policy at the correct age, according to the tables of rates of premium of the insurer in force at the time of the issue of the policy.

Calculation of amount of benefits under policy. (2) Where such tables of rates of premium of the insurer do not extend to or include the rates for the correct age of the person whose life is insured, the insurance money shall be reduced in the proportion that the premium at the age stated in the application bears to the premium at the correct age, both premiums for this purpose being the net premiums shown in or deduced from the British Offices' Life Table, 1893, Q<sup>M</sup> (5), the rate of interest being three and one-half per centum per annum, or, at the option of the insurer, both premiums for this purpose being calculated on the same principles as govern the calculation of premiums for ages mentioned in the table of rates of premium of the insurer in force at the time of the issue of the policy.

Where age overstated. (3) Where the age of the person whose life is insured is over-stated in the application, and the policy does not provide that in that event the insurance money shall be increased, the insurer shall repay the amount by which the premium paid exceeds the premium which would have been payable in respect of the correct age, but if the policy so provides, the insurance money shall be increased to the amount which would have been payable in respect of the premium stated in the policy at the correct age according to the tables of rates of premium of the insurer in force at the time of the issue of the policy.

What to be deemed correct age and stated age. (4) Where, by the terms or for the purposes of the contract, an addition is made to the age stated in the application, and the age is understated in the application, then, for the purpose of the calculation, the correct age and the stated age shall respectively be deemed to be the correct age and the stated age increased by such addition.

Where insurable age expressly limited. (5) Where the application or contract expressly limits the insurable age, and the correct age at the date of the application exceeds the age so limited, the contract shall, during the lifetime of the person whose life is insured, but not later than five years from the date of the policy, be voidable at the option of the insurer within thirty days after the error comes to its knowledge. R.S.O. 1927, c. 222, s. 128.

**139.**—(1) Unless the contract or the application otherwise expressly provides, the contract shall not take effect or be binding on either party until the policy is delivered to the insured, his assign, or agent, or the beneficiary named therein and payment of the first premium is made to the insurer or its duly authorized agent, no change having taken place in the insurability of the life about to be insured subsequent to the completion of the application. Conditions precedent to contract taking effect.

(2) Subject to the provisions of section 140, where a cheque, bill of exchange or promissory note payable to the insurer, or other written promise to pay the insurer, is given, whether originally or by way of renewal, for the whole or part of any premium, and the instrument, if payable on demand, is not paid upon presentment made on or after its date, or, if payable at a future time, is not paid upon presentment made at or after its maturity, the contract shall, unless otherwise provided in the policy, be void. Effect of default in payment of premium. R.S.O. 1927, c. 222, s. 129.

**140.**—(1) Where any premium, not being the initial premium, under any contract is unpaid, the insured, his assign or agent, or any beneficiary, may, within a period of grace of thirty days or, in the case of an industrial contract, four weeks from and excluding the day on which the premium is due, pay, deliver or tender to the insurer at its head office, or at its chief agency in the Province, or to its collector or authorized agent, the sum in default. Period of grace for payment of premiums. R.S.O. 1927, c. 222, s. 130 (1); 1935, c. 29, s. 7.

(2) The payment may be made by sending a post office order or postal note, or a cheque payable at par and certified by a bank doing business in Canada under the *Bank Act* (Canada), or a draft of such bank, or a money order of an express company doing business in the Province, in a registered letter duly addressed to the insurer, and the payment, delivery or tender shall be deemed to have been made at the time of the delivery and registration of the letter at any post office. Manner of payment. R.S.C. c. 12.

(3) Payment, delivery or tender as aforesaid shall have the same effect as if made at the due date of the premium. Effect of such payment.

(4) The period of grace hereinbefore in this section mentioned shall run concurrently with the period of grace, if any, allowed by the contract for the payment of a premium or of an instalment of premium. Concurrent period of grace under contract.

(5) Upon the maturity of the contract during the said period of grace and before the overdue premium is paid, the contract shall be deemed to be in as full force and effect as if the premium had been paid at its due date, but the amount of such premium with interest, not in excess of six per centum Contracts deemed to be in force during period of grace.



per annum, and the balance, if any, of the current year's premium, may be deducted from the insurance money.

Longer  
period of  
grace under  
contract not  
affected.

(6) Nothing in this section shall deprive the insured of the benefit of any period of grace allowed by the contract in excess of the period of grace allowed by this section. R.S.O. 1927, c. 222, s. 130 (2-6).

Reinstatement  
of lapsed  
contract.

**141.**—(1) Where a contract lapses and its cash value has not been paid and any options as to paid up or extended insurance have not been exercised, the insured shall be entitled to have the contract reinstated upon application within two years, or in the case of an industrial contract within one year, from the date of lapse upon the production of evidence of good health and other evidence of insurability of the person whose life was insured satisfactory to the insurer as at the date of the application for reinstatement and upon payment of all overdue premiums and other indebtedness to the insurer under the contract, with interest at such rate not exceeding six per centum per annum compounded annually, as the contract provides, and provided that no change has taken place in such good health and insurability subsequently to the date of such application and before the contract is reinstated.

Application  
of s. 135.

(2) Where an application is made to reinstate a contract and the contract is reinstated, section 135 shall *mutatis mutandis* apply, and the period of two years referred to in subsection 2 of that section shall run from the date of reinstatement.

Suicide.

(3) If the contract which lapsed provided that in the event of the suicide of the person whose life was insured within a period of time fixed thereby it should be void or that the amount payable thereunder should be reduced, and after the contract is reinstated such person commits suicide within a period of time commencing with the date of reinstatement and of the same duration as the period of time fixed by the contract, the reinstated contract shall be likewise void, or the amount payable thereunder shall be likewise reduced.

Application  
to fraternal  
societies.

(4) This section shall not apply to a contract of insurance made by a fraternal society. 1935, c. 29, s. 8.

Duty of  
insurer to  
furnish copy  
of applica-  
tion.

**142.** The insurer shall, upon request, furnish to the insured a true copy of the application for the insurance. R.S.O. 1927, c. 222, s. 131.

Meaning of  
"heirs" and  
like words in  
contract or  
declaration.

**143.**—(1) Except in the case of contracts of fraternal societies entered into prior to the 1st day of January, 1937, where by a contract or declaration the insured appoints as

beneficiaries or appoints or apportions insurance money to his "heirs," "legal heirs," "lawful heirs" or "next of kin," the appointment or apportionment shall be deemed to be for the benefit of the estate of the insured.

(2) In the case of contracts of fraternal societies entered into prior to the 1st day of January, 1937, whereby a contract or declaration the insured appoints as beneficiaries or appoints or apportions insurance money to his "heirs," "legal heirs," "lawful heirs," or "next of kin" the appointment or apportionment shall be deemed to be in favour of the persons provided by the law of the province, state or country in which the insured was domiciled at the time of his death respecting the distribution of the personal property of an intestate, and the insurance money so appointed or apportioned shall be paid to those persons in the shares provided by that law, and the insurance money shall not form part of the estate of the insured. 1936, c. 30, s. 2.

**144.** No officer, agent, employee or servant of the insurer or any person soliciting insurance, whether an agent of the insurer or not, shall to the prejudice of the insured be deemed to be for any purpose whatever the agent of the insured in respect of any question arising out of the contract of insurance. R.S.O. 1927, c. 222, s. 133.

Certain persons not to be deemed agents of insured.

#### *Insurable Interest.*

**145.** Every person has an insurable interest in his own life. R.S.O. 1927, c. 222, s. 134.

Insurable interest in own life.

**146.** Without restricting the meaning which "insurable interest" now has in law, each of the following persons has an insurable interest,—

Insurable interest in lives of others.

- (a) a parent in the life of his child under twenty-five years of age;
- (b) a husband in the life of his wife;
- (c) a wife in the life of her husband;
- (d) one person in the life of another, upon whom he is wholly or in part dependent for support or education, or from whom he is receiving support or education;
- (e) a corporation or other person in the life of its or his officer or employee;
- (f) a person who has a pecuniary interest in the duration of the life of another person, in the life of that person. R.S.O. 1927, c. 222, s. 135.

Contract  
void without  
insurable  
interest.

**147.** The contract shall be void, if, at the time at which it would otherwise take effect and be binding, the insured has no insurable interest. R.S.O. 1927, c. 222, s. 136.

When insur-  
able interest  
unnecessary.

**148.** Where the insured has at the time at which the contract takes effect an insurable interest in the life insured, it is not necessary for the validity of the contract or any assignment that any beneficiary, or any person claiming under an assignment, or by will or by succession, have an insurable interest. R.S.O. 1927, c. 222, s. 137.

*Policies on the Lives of Minors.*

Capacity of  
minors.

**149.** A minor shall, after attaining the age of fifteen years, have the capacity of a person of full age,—

- (a) to effect a contract of insurance on his own life and to deal with such contract;
  - (b) to deal with a contract of insurance on his own life effected by him before attaining the age of fifteen years;
  - (c) to deal with his interest in a contract of insurance effected on his life by another, whether effected before or after the minor attained the age of fifteen years;
  - (d) if married, to effect a contract of insurance on the life of his wife or her husband or his or her children, as the case may be, and to deal with such contract.
- 1935, c. 29, s. 10.

Restrictions  
on insurance  
on lives of  
children  
under ten  
years.

**150.**—(1) No insurer shall insure the life of a child under ten years of age in any sum, or pay on the death of a child under ten years of age any sum which alone or together with any sum payable on the death of the child by any other insurer exceeds the following sums respectively:

- \$100 if the child dies under the age of 1 year.
- 200 if the child dies under the age of 2 years.
- 300 if the child dies under the age of 3 years.
- 400 if the child dies under the age of 4 years.
- 500 if the child dies under the age of 5 years.
- 600 if the child dies under the age of 6 years.
- 700 if the child dies under the age of 7 years.
- 800 if the child dies under the age of 8 years.
- 900 if the child dies under the age of 9 years.
- 1000 if the child dies under the age of 10 years.



(2) Where the age of the child at the date of the contract is less than ten years, and the insurer knowingly or without sufficient inquiry enters into any contract prohibited by this section, the premiums paid thereunder shall be recoverable from the insurer by the person paying the same, together with interest thereon at six per centum per annum. Where insurance excessive.

(3) Every insurer which undertakes or effects insurance on the lives of children under ten years of age shall print the scale of benefits provided in subsection 1 in conspicuous type upon every circular or advertisement soliciting, and upon every policy of, such insurance. Scale of benefits to appear on circular, etc.

(4) An insurer which knowingly contravenes the provisions of subsection 1 or 3 shall be guilty of an offence and liable to the penalties provided by law for the illegal conduct of insurance business in the Province. Penalty.

(5) Nothing in subsections 1 and 3 shall apply to such contracts as were in force on the 14th day of April, 1892, or to a contract where the insured has a pecuniary interest in the life, or which limits the payment on the death of the child before attaining ten years of age to the premiums that have been paid, with interest at the rate provided for in the contract. R.S.O. 1927, c. 222, s. 139 (2-5). Proviso.

### *Beneficiaries.*

**151.**—(1) Beneficiaries for value are beneficiaries who have given valuable consideration other than marriage and who are expressly stated to be, or described as, beneficiaries for value in the policy or in an endorsement thereon or in a subsequent declaration signed by the insured. R.S.O. 1927, c. 222, s. 140 (1). Classes of beneficiaries — for value.

(2) Subject to section 159, preferred beneficiaries are the husband, wife, children, adopted children, grandchildren, children of adopted children, father, mother and adopting parents of the person whose life is insured. 1935, c. 29, s. 11. Preferred beneficiaries.

(3) Ordinary beneficiaries are beneficiaries who are not preferred beneficiaries, beneficiaries for value or assignees for value. R.S.O. 1927, c. 222, s. 140 (3). Ordinary beneficiaries.

**152.** A beneficiary for value and an assignee for value of a policy shall have a vested interest in the policy; but except as regards beneficiaries for value who are expressly stated to be or described as beneficiaries for value in the policy, a beneficiary for value or assignee for value who gives notice in writing of his interest in the policy to the insurer at the head or principal office of the insurer in Canada prior to any other Right of beneficiary for value or assignee for value.

beneficiary for value or assignee for value shall have priority of interest as against such last mentioned beneficiary or assignee. 1936, c. 30, s. 3.

Power of insured to deal with contract by declaration or otherwise.

**153.**—(1) Subject to the rights of beneficiaries for value and assignees for value and to the provisions of this Act relating to preferred beneficiaries, the insured may designate the beneficiary by the contract or by a declaration, and may from time to time by any declaration appoint, appropriate or apportion the insurance money, or alter or revoke any prior designation, appointment, appropriation or apportionment, or substitute new beneficiaries, or divert the insurance money wholly or in part to himself or his estate, and may surrender the contract to the insurer, borrow from the insurer upon the security of the contract, receive the surplus or profits for his own benefit, and otherwise deal with the contract as may be agreed upon between him and the insurer. R.S.O. 1927, c. 222, s. 142 (1).

Declaration in a will.

(2) A declaration contained in a will shall as against a subsequent declaration be deemed to have been made at the date of the will and not as if it had been made immediately before the death of the testator, provided that a declaration contained in a will shall not affect the rights or interest of any beneficiary for value or assignee for value who became such beneficiary for value or assignee for value subsequent to the date of the will unless a copy of the will or of the paragraph containing the declaration duly verified by statutory declaration has been filed with the insurer at its head or principal office in Canada prior to the time when the beneficiary for value or assignee for value acquired his interest in the policy. 1936, c. 30, s. 4.

Other declarations.

(3) A declaration contained in an instrument purporting to be a will which has not been revoked otherwise than by operation of law shall be effective as a declaration, notwithstanding that the instrument is invalid as a testamentary instrument. 1935, c. 29, s. 12, *part*.

Equality between beneficiaries.

**154.** Where two or more beneficiaries are designated otherwise than alternatively, but no apportionment is made, they shall share equally. R.S.O. 1927, c. 222, s. 143.

Disposal of shares of deceased ordinary beneficiaries.

**155.** Where there are several beneficiaries of whom one or more are ordinary beneficiaries and one or more of the ordinary beneficiaries die before the maturity of the contract, and no apportionment or other disposition of his or their shares is provided for in the contract or by a declaration, the share of any such deceased ordinary beneficiary, shall be payable to

the surviving designated beneficiary or beneficiaries, whether preferred or ordinary, and, if more than one, in equal shares but, if there is no surviving beneficiary, shall be payable to the insured or his estate. 1935, c. 29, s. 13.

**156.**—(1) Where the insured, in pursuance of the provisions of section 153, designates as beneficiary or beneficiaries, a member or members of the class of preferred beneficiaries, a trust is created in favour of the designated beneficiary or beneficiaries, and the insurance money, or such part thereof as is or has been apportioned to a preferred beneficiary, shall not, except as otherwise provided in this Act, be subject to the control of the insured, or of his creditors, or form part of the estate of the insured. R.S.O. 1927, c. 222, s. 145 (1); 1935, c. 29, s. 14 (1).

Trust in favour of preferred beneficiaries.

(2) The contract may provide or the insured may at any time direct by declaration that a preferred beneficiary shall be entitled only to the income from insurance money for life or for a period of time or subject to any limitation or contingency stated in the instrument.

Right to income only.

(3) The provisions of this section are subject to any vested rights of beneficiaries for value and assignees for value, to the provisions hereinafter contained relating to preferred beneficiaries, and to any contingency or limitation stated in the instrument by which the insured designates a preferred beneficiary, provided that no provision in any instrument reserving to the insured the right to revoke or abridge the interest of a preferred beneficiary shall be effective so as to enable the insured to revoke or abridge that interest in favour of a person not in the class of preferred beneficiaries. 1935, c. 29, s. 14 (2).

Proviso.

**157.** Notwithstanding the designation of a preferred beneficiary or beneficiaries, the insured may subsequently exercise the powers conferred by section 153 so as to restrict, limit, extend or transfer the benefits of the contract to any one or more of the class of preferred beneficiaries to the exclusion of any or all others of the class, or wholly or partly to one or more for life or any other term or subject to any limitation or contingency, with remainder to any other or others of the class. R.S.O. 1927, c. 222, s. 146.

Disposal of insurance moneys within class of preferred beneficiaries.

**158.**—(1) Subject to the provisions of section 160, where by the policy or by a subsequent declaration the insurance money or any part of it is made payable to or for the benefit of the wife of the person whose life is insured, his future wife, his wife and children or his future wife and children generally,

Meaning of "wife" and "children" in policy or declaration.



or his children generally, the word "wife" means the wife living at the maturity of the contract, and the word "children" includes all the children of the person whose life is insured living at the maturity of the contract as well as the issue living at the maturity of the contract of any child of his who predeceases him, such issue taking by representation. R.S.O. 1927, c. 222, s. 147 (1); 1935, c. 29, s. 15.

Meaning of "husband" and "children" in policy or declaration.

(2) The provisions of subsection 1 shall *mutatis mutandis* apply to insurance effected by a woman on her life where the insurance money or any part of it is made payable to or for the benefit of her husband or future husband, her husband and children or future husband and children generally, or her children generally.

Proviso.

(3) Subsections 1 and 2 shall not apply where the beneficiary or beneficiaries is or are designated by name, or otherwise definitely indicated. R.S.O. 1927, c. 222, s. 147 (2, 3).

Effect of adoption on relationship of beneficiaries.

**159.** For the purposes of this Part an adopted child and its adopting parent shall from the date of the adoption be deemed to bear towards one another the relationship of preferred beneficiaries, and an adopted child and its natural parents shall from the date of the adoption be deemed to bear towards one another the relationship of ordinary beneficiaries, and in either case this provision shall apply in respect of insurance effected both before and after the date of adoption. 1935, c. 29, s. 16.

Disposal of share of deceased preferred beneficiary right to designate alternative beneficiary.

**160.—**(1) Subject to subsection 2 the contract may provide or the insured may at any time direct by declaration that if a preferred beneficiary shall die before the maturity of the contract, the insurance money or any part thereof appointed to the preferred beneficiary shall be payable to the insured, to his estate, or to any other person, whether that person is within the class of preferred beneficiaries or not.

Where alternative preferred beneficiary named.

(2) Where the contract provides or the insured by a declaration directs that insurance money shall go to a preferred beneficiary and in the event of the death of the preferred beneficiary to some other person in the class of preferred beneficiaries, and the first named beneficiary dies, the insured may before the maturity of the contract exercise only the powers referred to in section 157.

Where no alternative preferred beneficiary named.

(3) In case of the death of a preferred beneficiary before the maturity of the contract and in the absence of any provision in the contract or a declaration by which some other person in the class of preferred beneficiaries is to become entitled to the insurance money or any part thereof appointed to the deceased

beneficiary in the event of his death or upon the happening of any other event, the insured may deal under section 153 with the insurance money or part thereof in the same manner and to the same extent as if the deceased beneficiary had not been a preferred beneficiary. 1935, c. 29, s. 17 (1).

(4) Subject to the provisions of this section the share of a <sup>Proviso.</sup> preferred beneficiary who dies before the maturity of the contract shall be payable as follows:—

- (a) If the deceased beneficiary was a child of the person whose life is insured, and has left issue surviving at the maturity of the contract, his share, and any share to which he would have been entitled if he had survived, shall be payable to such issue in equal shares, such issue taking by representation.
- (b) If there is no person entitled under clause *a*, the share of such deceased beneficiary shall be payable to the surviving designated preferred beneficiary or beneficiaries in equal shares.
- (c) If there is no person entitled under clauses *a* and *b*, the share of such deceased beneficiary shall be payable in equal shares to the wife or husband and the child or children of the person whose life is insured living at the maturity of the contract, and the issue then living of any deceased child of the person whose life is insured, such issue taking in equal shares the share to which his or their parent would have been entitled if living.
- (d) If there is no person entitled under clauses *a*, *b*, and *c*, the share of such deceased beneficiary shall be payable to the insured, or his estate. R.S.O. 1927, c. 222, s. 148 (2); 1935, c. 29, s. 17 (2).

**161.**—(1) Where the wife or husband of the person whose life is insured is designated as beneficiary, and is subsequently divorced, all interest of the beneficiary under the policy shall pass to the insured or his estate, unless such beneficiary is a beneficiary for value, or an assignee for value. <sup>Effect of divorce of certain beneficiaries.</sup>

(2) Where a divorce has been granted on the application of the beneficiary, the beneficiary shall be estopped from denying the validity of the divorce for the purpose of this section. <sup>When deemed lawfully divorced.</sup> R.S.O. 1927, c. 222, s. 149 (1, 2).

(3) Until the insurer receives at its head or principal office in Canada notice in writing of the Act of Parliament, judgment, decree or order granting the divorce, it may deal with <sup>Notice of divorce.</sup>

the insurance money in the same manner and with the same effect as if no divorce had been granted, and before paying the insurance money, the insurer shall be entitled to receive the original judgment, order or decree or a duly verified copy thereof, or a duly verified copy of the Act of Parliament, or a copy thereof printed by the King's printer, as the case may be. R.S.O. 1927, c. 222, s. 149 (3); 1936, c. 30, s. 5.

Recovery.

(4) Nothing in subsection 3 shall affect the right of any person entitled to payment by virtue of such divorce to recover from any person to whom payment is made by the insurer. R.S.O. 1927, c. 222, s. 149 (4).

Circumstances disentitling wife or husband as beneficiary.

**162.** Where the wife or husband of the person whose life is insured is designated as beneficiary, and it appears, in the case of the wife, that she is living apart from her husband in circumstances disentitling her to alimony, or in the case of the husband, that he is living apart from his wife in circumstances disentitling him to an order for restitution of conjugal rights, and that there is no other member of the class of preferred beneficiaries whom the insured may designate as beneficiary in place of the designated beneficiary, the court may, on the application of the insured, and on such terms as may seem fit, declare the designated beneficiary disentitled to claim the benefit of the provisions of this Part relating to preferred beneficiaries, and the insured may then deal with the policy as provided by section 153. R.S.O. 1927, c. 222, s. 150.

Surrender of or borrowing on contract where preferred beneficiary.

**163.**—(1) Where a preferred beneficiary is designated, the insured may surrender the contract to the insurer and accept in lieu thereof any paid up or extended insurance provided by the contract in favour of the preferred beneficiary.

(2) Where a preferred beneficiary is designated, the insured may, from time to time, borrow from the insurer on the security of the contract, such sums as may be necessary and are applied to keep it in force, and the sums so borrowed, with such interest as may be agreed on, shall be a first charge on the contract and the insurance money. R.S.O. 1927, c. 222, s. 151.

Disposal of surplus or profits where preferred beneficiary.

**164.**—(1) Notwithstanding the designation of a preferred beneficiary, any person who effects a participating contract may, during his lifetime receive for his own benefit the surplus or profits declared on the contract or may direct the insurer to apply them in payment or reduction of premiums, or in the purchase of paid up additions to the sum insured, or to hold them to his credit for accumulation, or to deal otherwise with such surplus or profits as the contract may provide, and upon



the maturity of the contract all surplus or profits so held to the credit of the insured, or being due and unpaid, shall, subject to the contract and to any direction by the insured to the contrary, be added to the insurance money and the share of any beneficiary shall be increased accordingly.

(2) The insurer may apply for the purpose of keeping the contract in force any surplus or profits declared on the contract and held by the insurer to the credit of the contract or of the insured, or held for accumulation, and not otherwise applied or dealt with under subsection 1.

Insurer may apply surplus to keep contract in force.

(3) The insurer shall not be obliged to pay or apply any surplus or profits in a manner contrary to the terms of the contract or of any subsequent agreement. 1935, c. 29, s. 18.

Obligation of insurer.

**165.**—(1) Where all the designated preferred beneficiaries are of full age, they and the insured may surrender the contract or may assign or dispose of the same either absolutely or by way of security, to the insurer, the insured or any other person, but notwithstanding anything herein contained the insured may exercise the borrowing powers conferred by section 163 without the concurrence of any beneficiary.

Dealing with contract with consent of beneficiary.

(2) Where the beneficiaries, whether designated by name or not, include the wife or children or grandchildren, it shall be sufficient, so far as their interests are concerned, if all then living are of full age and join in the surrender, assignment or disposal. R.S.O. 1927, c. 222, s. 153.

Idem.

(3) Where insurance money is made payable to a minor or other person under disability or to a trustee on behalf of a minor or person under disability, and where the insurance money or a part thereof is required for the maintenance or education of the minor or person under disability, the Court may, upon the application of the insured, upon at least ten days' notice to the insurer, make an order, on such terms as it may deem just, permitting the insured to surrender the contract to the insurer, or to borrow from the insurer on the security thereof and payment by the insurer in accordance with such order shall discharge it from liability in respect of such payment.

Where payable to person under disability—order of Court.

(4) Where a contract has been assigned as security for any loan or debt the rights of any beneficiary, whether ordinary or preferred, under such contract shall be affected only to the extent necessary to give effect to the rights of the assignee, and when the loan or debt is discharged the assignee shall furnish a certificate in writing to that effect and that the assignee has no further right, title or interest in the contract. 1935, c. 29, s. 19.

Where contract has been assigned.

Consent of  
contingent  
beneficiary  
not neces-  
sary.

**166.** Where by a contract or any instrument in writing a person is to become entitled to insurance money only in the event of the death of another person named as a beneficiary it shall not be necessary for such first mentioned person to join in any surrender, assignment or disposal of the contract. R.S.O. 1927, c. 222, s. 154; 1935, c. 29, s. 20.

Dealing with  
insurance  
money  
payable in  
instalments.

**167.**—(1) Where the insurance money is payable in instalments and the contract, or an instrument in writing signed by the insured and delivered to the insurer, expressly provides that the beneficiary shall not have the right to commute the instalments or to alienate or assign his interest therein, the insurer shall not commute the instalments or pay them to any person other than the beneficiary, and the instalments shall not, in the hands of the insurer, be subject to legal process except in an action to recover for necessities supplied to the beneficiary or his or her infant children. R.S.O. 1927, c. 222, s. 155 (1); 1935, c. 29, s. 21.

Exceptions.

(2) Notwithstanding anything contained in subsection 1,—

- (a) the insured may, by an instrument in writing signed by him and delivered to the insurer, declare that the beneficiary shall have the right to commute, or alienate or assign, as the case may be;
- (b) the Court may, upon the application of the insurer or the beneficiary, upon at least ten days' notice, declare that in view of special circumstances the beneficiary shall have the right to commute, or alienate or assign, as the case may be;
- (c) after the death of the beneficiary his personal representatives may commute any instalments payable to them.

"Instal-  
ments,"  
meaning of.

(3) In this section the word "instalments" includes insurance money or any part thereof held by the insurer under the provisions of section 168. R.S.O. 1927, c. 222, s. 155 (2, 3).

Insurance  
money held  
by insurer  
subject to  
terms of  
contract or  
other  
directions.

**168.** Subject to the provisions of this Part relating to preferred beneficiaries, where it is so expressly provided in the contract or by an agreement in writing with the insurer or by a declaration, the insurer may hold the insurance money or any part thereof after maturity of the contract subject to the order of the beneficiary, or upon such trusts or other agreements for the benefit of the beneficiary as may be provided in the contract, agreement or declaration, allowing and paying for the term during which the insurer retains such insurance money or any part thereof, interest thereon at a rate not less

than that specified in the contract, agreement or declaration, or, if no rate be agreed upon, at the rate declared from time to time by the insurer in respect to insurance money so held by it; provided that the insurer shall not be bound to carry out the terms of any declaration to which it has not agreed in writing. 1935, c. 29, s. 22, *part*.

**169.**—(1) Until the insurer receives at its head or principal office in Canada notice in writing of the making of an order declaring a beneficiary disentitled to insurance money, or of any instrument in writing affecting the insurance money or any part thereof or of the appointment or the revocation of the appointment of a trustee, it may make any payment which would have been lawful and valid except for such order, instrument in writing, appointment or revocation of appointment, and before making any payment in pursuance or under the authority of such order, instrument in writing, appointment or revocation of appointment, it shall be entitled to receive the original or a true copy thereof. R.S.O. 1927, c. 222, s. 157 (1); 1936, c. 30, s. 7.

Payments by insurer without notice of change in title to insurance money.

(2) Nothing in this section shall affect the right of any person entitled to payment by virtue of such order, instrument in writing, appointment or revocation of appointment, to recover from any person to whom payment has been made by the insurer. R.S.O. 1927, c. 222, s. 157 (2).

Proviso.

**170.** The insurer shall not incur any liability for any default, error or omission in giving or withholding information as to any notice or instrument in writing affecting the insurance money which the insurer has received. 1936, c. 30, s. 8.

Right of insurer to give or withhold information.

### *Proof of Claim and Payment.*

**171.**—(1) The insurer shall be entitled to reasonably sufficient proof in writing verified by affidavit or statutory declaration of the maturity of the contract, of the age of the person whose life is insured and of the right of the claimant to receive payment of the insurance money. R.S.O. 1927, c. 222, s. 158 (1).

Insurer entitled to certain proof of claim—age of insured and right of claimants.

(2) Where the insurance money or part thereof is payable to or for the benefit of a beneficiary, the insurer shall be entitled to reasonably sufficient proof of the name and age of the beneficiary. 1935, c. 29, s. 23.

Name and age of beneficiary.

**172.**—(1) Insurance money which is expressed to be payable at the maturity of the contract shall be payable thirty days after reasonably sufficient proof has been furnished

Time for payment of insurance money.



to the insurer of the maturity of the contract, of the age of the person whose life is insured, and of the right of the claimant to receive payment. R.S.O. 1927, c. 222, s. 159 (1).

Place of  
payment.

(2) Insurance money shall be payable in the province in which the insured is domiciled at the time of death, or in which he is domiciled when it becomes payable otherwise than by reason of death, or, if he was not or is not then domiciled in Canada and the contract does not otherwise provide, shall be payable at the head or principal office of the insurer in Canada. 1936, c. 30, s. 9.

Manner of  
payment.

(3) Every amount to be paid to or by an insurer under a contract shall be payable in lawful money of Canada, unless the contract expressly provides for payment in another currency.

Meaning of  
"dollars."

(4) In every contract, whether the contract by its terms provides for payment in Canada or elsewhere, amounts expressed in dollars shall mean lawful dollars of Canadian currency, unless some other currency is specifically provided for in the contract. 1935, c. 29, s. 24, *part*.

Payments  
outside of  
Canada.

**173.** Where insurance money is payable in respect of a policy on the life of a person who is at the date of his death domiciled elsewhere than in Canada to another person domiciled elsewhere than in Canada, and there is no person in Canada entitled to receive it, the insurer may pay it to the person to whom it is so payable, or to any other person entitled to receive it on his behalf by the law of the domicile of the payee. 1935, c. 29, s. 25.

Application  
to Court for  
declaration  
as to  
sufficiency  
of proofs.

**174.—**(1) Where the insurer admits the validity of the contract but does not admit the sufficiency of the proof furnished by the claimant of the maturity of the contract, or of the age of the person whose life is insured, or of the right of the claimant to receive payment of the insurance money, and where there is no other question in issue, except a question under subsection 2, the insurer or the claimant may, before or after action brought, upon at least thirty days' notice apply to the Court for a declaration as to the sufficiency of the proof furnished, and the Court may direct what further proof shall be furnished, or in special circumstances, may dispense with further proof.

Declaration  
as to  
presumption  
of death.

(2) Where the claimant alleges that the person whose life is insured is presumed to be dead by reason of his not having been heard of for seven years, and where there is no other question in issue except a question under subsection 1, the insurer or the claimant may, before or after action brought,

upon at least thirty days' notice, apply to the Court for a declaration as to the presumption of death.

(3) If the Court finds that the proof of the maturity of the contract or of the age of the person whose life is insured or of the right of the claimant to receive payment is sufficient, or that a presumption of death has been established, or makes an order directing what further proof shall be furnished or in special circumstances dispensing with further proof, the finding or order of the Court shall, subject to appeal, be conclusive and binding upon the applicant and all parties notified of the application and the Court may make such order as to the payment of the insurance money and as to the costs as to it may seem just. 1935, c. 29, s. 26. Effect of order of Court.

(4) The payment by the insurer in accordance with the order shall discharge it from liability in respect of such payment. Effect of payment.

(5) If the Court does not find that the proof of the maturity of the contract, of the age of the person whose life is insured, or of the right of the claimant to receive payment is sufficient, or that the presumption of death is established, the Court may order that the question or questions in issue be decided in an action brought or to be brought, or may make such other order as to it seems just as to further proof to be furnished by the claimant, as to publication of advertisements, as to further inquiry, and as to costs, or otherwise. Powers of judge.

(6) Unless otherwise ordered by the Court, the application shall operate as a stay of any pending action with respect to the insurance money. R.S.O. 1927, c. 222, s. 160 (4-6). Stay of proceedings.

**175.** Where the person whose life is insured and any one or more of the beneficiaries perish in the same disaster, it shall be *prima facie* presumed that the beneficiary or beneficiaries died first. R.S.O. 1927, c. 222, s. 161. Presumption where insured and beneficiary perish in same disaster.

#### *Miscellaneous.*

**176.**—(1) Subject to subsections 2 to 4, any action or proceeding against the insurer for the recovery of insurance money shall be commenced within one year next after the furnishing of reasonably sufficient proof of the maturity of the contract and of the right of the claimant to receive payment, or within six years next after the maturity of the contract, whichever period shall first expire, but not afterwards. Limitation of actions.

(2) Where an order has been made declaring that death is presumed from the fact that the person whose life is insured has not been heard of for seven years, an action or proceeding Limitation when death presumed.

shall be commenced within one year and six months from the date of the order, but not afterwards. R.S.O. 1927, c. 222, s. 162 (1, 2).

Limitation  
where death  
unknown to  
claimant.

(3) Where the death of the person whose life is insured is unknown to the person entitled to claim under the contract, an action or proceeding may be commenced within the prescribed period or within one year and six months after the death becomes known to him whichever period shall first expire but not afterwards. R.S.O. 1927, c. 222, s. 162 (3); 1935, c. 29, s. 27 (1).

Limitation  
when action  
prematurely  
brought.

(4) Where an action or proceeding is prematurely brought, the plaintiff may commence a new action or proceeding at any time within six months after the final determination of the first action or proceeding. R.S.O. 1927, c. 222, s. 162 (4); 1935, c. 29, s. 27 (2).

Appoint-  
ment of  
trustees for  
beneficiary  
by insured.

**177.**—(1) The powers conferred upon the insured by this Part with regard to the designation or appointment of a beneficiary or beneficiaries, and the alteration or revocation of such designation or appointment, and the apportionment or reapportionment of insurance money between or among beneficiaries, shall include power from time to time to appoint a trustee or trustees for any beneficiary or beneficiaries, to revoke such appointment or alter its terms, to appoint a new trustee or trustees, or to make provision for the appointment of a new trustee or trustees.

Effect of  
appointment  
on bene-  
ficiary.

(2) The appointment of a trustee or trustees for any beneficiary shall not have the effect of taking away from the Court or the insured any power of depriving the beneficiary of the benefit of the insurance money which the Court or the insured would have under this Act if such beneficiary had been designated as beneficiary without the appointment of a trustee.

Payment to  
trustee.

(3) Payment made to the trustee or trustees appointed as hereinbefore provided shall discharge the insurer. R.S.O. 1927, c. 222, s. 163.

Payment of  
share of  
persons  
under  
disability.

**178.**—(1) Where no trustee is appointed to receive the share to which a minor or other person under disability is entitled, or where a trustee is named but refuses or neglects to act or dies or otherwise becomes incapable of acting, the share of the minor or other person under disability may be paid to a guardian or tutor or trustee of the minor or to a curator, committee or trustee of such other person under disability duly appointed under the law of this Province. 1936, c. 30, s. 10.



(2) Where insurance money not exceeding \$2,000 is payable to the husband and children or to the wife and children, or to the children of the person whose life is insured, and one or more of the children are minors, the Court may, if the wife is the mother of such minors, appoint her their guardian, or if the husband is the father of such minors, appoint him their guardian, with or without security, and the insurance money may be paid to him or her as guardian.

Payment to parent as guardian of minor.

(3) Where it appears that a guardian, tutor, curator, committee or trustee of minors or other beneficiaries under disability has been appointed in a foreign jurisdiction, and that the minors or other beneficiaries are resident within that jurisdiction, the Court may authorize payment of the insurance money to the guardian, tutor, curator, committee or trustee with or without security in the Province. R.S.O. 1927, c. 222, s. 164 (2, 3).

Payment to person appointed as guardian by foreign court.

**179.**—(1) Where the insurer admits liability for the insurance money or any part thereof, and it appears to the insurer that,—

Payment by insurer into Court.

- (a) there are adverse claimants; or
- (b) the place of abode of a person entitled is unknown; or,
- (c) there is no person capable of giving or authorized to give, a valid discharge;

the insurer may, at any time after the expiration of one month from the maturity of the contract, apply to the Court for an order for payment of the money into Court, and the Court may upon such notice, if any, as it thinks necessary make an order accordingly, and such application shall in the first instance be made *ex parte*. 1936, c. 30, s. 11.

(2) Where the insurer admits liability for the insurance money or any part thereof payable to a minor and there is no person capable of giving a valid discharge therefor, the insurer may at any time after the expiration of one month from the maturity of the contract, pay such money, less the costs mentioned in subsection 3, into Court to the credit of the minor.

Where beneficiary a minor.

(3) The insurer may retain out of the insurance money for costs \$10 if the amount does not exceed \$1,000, and \$15 in other cases, and payment of the remainder into Court shall discharge the insurer.

Costs.

(4) No order shall be necessary for payment into Court under subsection 2, but the accountant or other proper officer shall receive the money upon the insurer filing with him an

Procedure for payment in under subsection 2.

affidavit showing the amount payable and the name, date of birth and residence of the minor, and upon such payment being made the insurer shall forthwith notify the Official Guardian of infants and deliver to him a copy of the affidavit. R.S.O. 1927, c. 222, s. 165 (2-4).

Power of  
Court where  
insurer fails  
to pay after  
proof.

**180.** Where the insurer does not within two months after due proof of the claim, pay the insurance money to some person competent to receive the same under this Part or into Court, the Court may, upon application of any person, order that the insurance money, or any part thereof, be paid into Court or may make such other order as to the distribution of such money as to the Court may seem just, and payment made in accordance with such order shall be a sufficient discharge to the insurer. R.S.O. 1927, c. 222, s. 166.

Costs of  
proceedings  
under  
ss. 179, 180.

**181.** The Court may order the costs incurred upon or in connection with any application or order made under section 179 or 180 to be paid out of the insurance money or by the insurer or the applicant or otherwise as may seem just. R.S.O. 1927, c. 222, s. 167.

Construc-  
tion of  
Part.

**182.** This Part shall be so interpreted and construed as to effect its general purpose of making uniform the law of those provinces which enact it. R.S.O. 1927, c. 222, s. 168.

## PART VI.

### AUTOMOBILE INSURANCE.

Interpreta-  
tion.

"Auto-  
mobile."

**183.** In this Part, unless the context otherwise requires,—

(a) "Automobile" includes all self-propelled vehicles, their trailers, accessories and equipment, but not railway rolling stock, watercraft or aircraft of any kind;

"Automobile  
insurance."

(b) "Automobile insurance" means insurance against liability for loss or damage to persons or property caused by an automobile or the use or operation thereof, and against loss of or damage to an automobile;

"Contract."

(c) "Contract" includes any writing evidencing a contract, and an oral agreement;

"Driver's  
policy."

(d) "Driver's policy" means a motor vehicle liability policy insuring a person named therein in respect of the operation or use by him of any automobile other than an automobile owned by him or registered in his name;

- (e) "Insured" means a person insured by a contract "Insured," whether named or not;
- (f) "Motor vehicle liability policy" means a policy or "Motor vehicle liability policy." that part of a policy insuring the owner or driver of an automobile against liability for loss or damage to persons or property;
- (g) "Owner's policy" means a motor vehicle liability "Owner's policy." policy insuring a person named therein in respect of the ownership, operation or use of any automobile owned by him and designated in the policy;
- (h) "Policy" means the instrument evidencing a con- "Policy." tract. 1932, c. 25, s. 2, *part.*

#### *Application of Part.*

**184.**—(1) This Part shall apply to automobile insurance Application of Part. and to any insurer carrying on the business of automobile insurance in the Province and to all contracts made in the Province on or after the 1st day of September, 1932.

(2) Nothing in this Part shall prevent the insurance of an automobile against loss or damage by fire under a policy of Insurance of automobile by fire policy. fire insurance, and in that event this Part shall not apply. 1932, c. 25, s. 2, *part.*

#### *Application for Insurance.*

**185.**—(1) No insurer shall make any contract for a period Contracts to be in writing. exceeding fourteen days without a written application therefor, signed by the applicant or his agent, duly authorized in writing.

(2) No person carrying on the business of financing the sale or purchase of automobiles, and no automobile dealer, Persons forbidden to act as agent. insurance agent or broker, and no officer or employee of any such person, dealer, agent or broker, shall act as agent of the applicant under this section.

(3) Every written application for a driver's policy shall set Application for driver's policy. forth,—

- (a) the name, address and occupation or business of the applicant;
- (b) particulars of any accident in which any automobile operated by the applicant has been involved within the three years preceding the application;
- (c) particulars of any claim made within such period against or by the applicant arising out of the use or operation of an automobile;



- (d) whether any insurer has cancelled any policy of automobile insurance of the applicant or refused automobile insurance to him;
- (e) whether any license, permit, registration certificate or other like authority, issued to the applicant under any law or statute of any province, state or country relating to automobiles, has been, or continued to be, suspended or cancelled within the three years preceding the application; and
- (f) such further information as the insurer may require or the Superintendent may prescribe.

Application  
in other  
cases.

- (4) Every other written application shall set forth,—
  - (a) the name, address and occupation or business of the owner;
  - (b) the description of the automobile to be insured;
  - (c) its purchase price to the owner, and whether fully paid or not;
  - (d) whether purchased new or otherwise;
  - (e) particulars of any mortgage, lien or incumbrance thereon;
  - (f) the place where it is and will usually be kept;
  - (g) the locality in which and the purpose for which it is and will be chiefly used;
  - (h) particulars of any accident in which any automobile owned or operated by the owner has been involved within the three years preceding the application;
  - (i) particulars of any claim made within such period against or by the owner arising out of the use or operation of an automobile;
  - (j) whether any insurer has cancelled any policy of automobile insurance of the owner, or refused automobile insurance to him;
  - (k) whether any license, permit, registration certificate or other like authority, issued to the owner or a member of his family and household under any law or statute of any province, state or country relating to automobiles, has, to the knowledge of the applicant, been, or continued to be, suspended or cancelled within the three years preceding the application; and
  - (l) such further information as the insurer may require or the Superintendent may prescribe.

(5) Where the requirements of subsection 3 or 4 are, in the opinion of the Superintendent, inapplicable to any special form of contract, the Superintendent may prescribe the form of application or vary, omit or add to those requirements. Special contracts.

(6) Upon every written application and policy there shall be printed or stamped in conspicuous type, not less in size than ten point and in red ink, a copy of subsection 1 of section 191. Red ink endorsement.

(7) Where a contract is renewed without change or only the amount of the insurance, the rate of premium or the method of rating is changed, the renewal may be effected without a written application. Renewal of contract.

(8) A copy of the application, or such part thereof as is material to the contract, shall be embodied in, endorsed upon or attached to the policy when issued by the insurer. 1932, c. 25, s. 2, *part*. Copy of application.

**186.** Where it is proposed to change the subject matter of a contract by substitution or addition of one or more automobiles, the insurer may so amend the contract by an endorsement of the policy, but in that case it shall obtain a written application signed in accordance with section 185 and containing such particulars required by that section as relate to the new subject matter. 1932, c. 25, s. 2, *part*. Amendment of contract.

#### *Policy of Insurance.*

**187.**—(1) Every policy shall set forth,—

Contents of policy.

- (a) the name and address of the insurer;
- (b) the name, address, occupation or business of the insured named therein;
- (c) the premium for the insurance;
- (d) the subject matter of the insurance;
- (e) the indemnity for which the insurer may become liable;
- (f) the event on the happening of which liability is to accrue;
- (g) the term of the insurance; and
- (h) except in case of motor vehicle liability policies, the name of the person to whom the insurance money is payable.

(2) Unless otherwise expressly stated therein, any written application shall be deemed to be one for a policy embodying the terms and conditions of the insurer's corresponding Discrepancy between the application and the policy.

standard policy form approved under this Part, and the policy shall be deemed to be in accordance with the application unless the insurer points out in the writing to the insured named in the policy in what respect the policy differs from the application, and, in that event, the insured shall be deemed to have accepted the policy unless within one week from the receipt of the notification he informs the insurer in writing that he rejects the policy.

Insured  
entitled to  
copy.

(3) Notwithstanding any agreement, the insurer shall deliver or mail to the insured named therein the policy or a true copy thereof and every endorsement or amendment of the policy or a true copy thereof. 1932, c. 25, s. 2, *part*.

Statutory  
conditions.

**188.**—(1) Subject to the provisions of subsections 2 and 3 and sections 189 and 207,—

(a) the conditions set forth in this section shall be statutory conditions and deemed to be part of every contract of automobile insurance and shall be printed on every policy with the heading "Statutory Conditions";

(b) no variation or omission of a statutory condition shall be valid nor shall anything contained in any addition to a statutory condition or in the description of the subject matter of the insurance be effective in so far as it is inconsistent with, varies or avoids any such condition.

When special  
condition  
may be  
made.

(2) Where the automobile insurance is neither insurance under a motor vehicle liability policy nor insurance against loss of or damage to an automobile designated in the policy, the Superintendent may prescribe appropriate conditions or may omit, vary or add to the statutory conditions.

Where use  
of vehicle is  
restricted.

(3) The Superintendent may approve a form of motor vehicle liability policy appropriate to insure a limited or restricted use of the automobile and in that case the statutory conditions shall be deemed to be amended so far as is necessary to give effect to the terms and conditions of the policy so approved and the provisions of sections 198 and 199 shall not apply. 1935, c. 29, s. 30 (1).

#### STATUTORY CONDITIONS

##### Material Change in Risk

1. (a) The insured named in the policy shall promptly notify the insurer, or its local agent, in writing, of any change in the risk material to the contract and within his knowledge.

(b) Without restricting the generality of the foregoing, the words "change in the risk material to the contract" shall include:—



- Sale** (i) any change in the insurable interest of the insured named in the policy in the automobile by sale, assignment or otherwise, except through change of title by succession, death or proceedings under the *Bankruptcy Act*;
- Mortgage or Lien** and in cases other than motor vehicle liability policies:
- (ii) any mortgage, lien or incumbrance affecting the automobile after the application for the policy;
- Other Insurance** (iii) any other insurance of the same interest, whether valid or not, covering loss or damage insured by the policy or any portion thereof.
- Prohibited Use by Insured** 2.—(1) The insured shall not use or drive the automobile:
- (a) whilst under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile; or
- (b) whilst he is not for the time being qualified and authorized by law to drive or operate the automobile or, in case the law does not prescribe any qualification or authority whilst under the age of sixteen years; or
- (c) for any illicit or prohibited trade or transportation; or
- (d) in any race or speed test.
- Prohibited Use by Others** (2) The insured shall not permit, suffer, allow or connive at the use of the automobile:
- (a) by any person under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile; or
- (b) by any person who is not for the time being qualified and authorized by law to drive or operate the automobile or, in case the law does not prescribe any qualification or authority by any person under the age of sixteen years; or
- (c) for any illicit or prohibited trade or transportation; or
- (d) in any race or speed test.
- Uses Prohibited Without Permission** 3. Unless permission is expressly given by an endorsement of the policy and in consideration of an additional stated premium, the automobile shall not be rented or leased nor shall it be used:—
- Trailer** (a) with trailer attached; or
- Explosives** (b) to carry explosives; or
- Taxicab or Bus** (c) as a taxicab, public omnibus, livery, jitney, or sight-seeing conveyance or for carrying passengers for compensation or hire.
- Loss or Damage to Persons or Property** 4.—(1) The insured shall promptly give to the insurer written notice, with all available particulars, of any accident involving loss or damage to persons or property, and of any claim made on account of accident; shall verify by affidavit or statutory declaration, if required by the insurer, that the claim arises out of the operation or use of an automobile described in the policy and that the person operating or responsible for the operation of the automobile at the time of the accident is a person insured by the policy; and shall forward immediately to the insurer every writ, letter, document or advice received by him from or on behalf of the claimant.

**Co-operation of Insured and Insurer in Claim Settlement**

(2) The insured shall not voluntarily assume any liability or settle any claim except at his own cost. The insured shall not interfere in any negotiations for settlement or in any legal proceeding but, whenever requested by the insurer, shall aid in securing information and evidence and the attendance of any witness, and shall co-operate with the insurer, except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal.

**Loss or Damage to the Automobile**

**Insured to give Notice of Claim**

5.—(1) Upon the occurrence of any loss or of damage to the insured automobile, the insured shall, if such loss or damage is covered by this policy:

(a) forthwith give notice thereof, in writing, to the insurer, with fullest information obtainable at the time, and shall, at the expense of the insurer, and as far as reasonably possible, protect the automobile from further loss or damage, and any such further loss or damage accruing directly or indirectly from a failure to protect shall not be recoverable hereunder. No repairs shall be undertaken or any physical evidence of the loss or damage removed without the written consent of the insurer, except such repairs as are immediately necessary for the protection of the automobile from further loss or damage; or until the insurer has had a reasonable time to make the examination provided for in statutory condition 7.

**Proof of Loss**

(b) deliver to the insurer within ninety days of the date of the loss or damage a statutory declaration stating, so far as the insured knows or believes, the place, time, cause and amount of the loss or damage, the interest of the insured and of all others therein, the incumbrances thereon, all other insurance, whether valid or not, covering the automobile, and that the loss or damage did not occur through any wilful act or neglect, procurement, means or connivance of the insured.

**Examination of Insured**

(2) The insured shall submit to examination under oath, and shall produce for examination, at such reasonable place as is designated by the insurer or its representative, all documents in his possession or control which relate to the matters in question, and shall permit extracts and copies thereof to be made.

**Insurer Liable For Cash Value of Automobile**

(3) The insurer shall not be liable beyond the actual cash value of the automobile at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to such actual cash value with proper deduction for depreciation, however caused, and shall in no event exceed what it would cost to repair or replace the automobile or any part thereof with material of like kind and quality; provided that in the event of any part of the automobile being obsolete and out of stock, the liability of the insurer in respect thereof shall be limited to the value of such part at the time of loss or damage not exceeding the maker's last list price.

**Repairs**

(4) Except where an appraisal has been had, the insurer, instead of making payment may, within a reasonable time, repair, rebuild or replace the property damaged or lost with other of like kind and quality, giving written notice of its intention so to do within seven days after the receipt of the proofs of loss; but there can be no abandonment of the automobile to the insurer without its consent. In the event of the insurer exercising such option, the salvage, if any, shall revert to it.

**In Case of Disagreement**

(5) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount payable in respect of any loss or damage, such questions shall be determined by appraisers before recovery can be had hereunder, whether the right to recover on the policy is disputed or not, and independently of all other questions.

**Appraisal**

(6) The insured and the insurer shall each select one appraiser, and the two so chosen shall then select a disinterested umpire. Thereafter the two appraisers together shall estimate or appraise the loss or damage, stating separately sound value and damage, or determine the adequacy of such repairs or replacements, and, failing to agree, shall submit their differences to the umpire.

**Appointment of Appraisers**

(7) In case either party fails to name an appraiser within seven clear days after being served with written notice so to do, or in case the appraisers fail to agree upon an umpire within fifteen days after their appointment, or in case an appraiser or umpire refuses to act or is incapable of acting, or dies, a Judge of a Superior, County or District Court having jurisdiction in the county or district in which the appraisal is to be made may appoint such appraiser or umpire on the application of the insured or of the insurer.

**Award**

(8) An award in writing of the two appraisers, or of one appraiser and the umpire, shall determine the nature and extent or adequacy of the repairs and replacements made or required, or the amount of such loss or damage.

**Costs of Appraisal**

(9) Each party shall pay the appraiser selected by him and shall bear equally the other expenses of the appraisal and of the umpire.

**Waiver**

6. Neither the insurer nor the insured shall be deemed to have waived any term or condition of this policy by any act relating to the appraisal or to the delivery and completion of proofs of loss, or to the investigation or adjustment of the claim.

**Inspection of Automobile**

7. The insurer shall be permitted at all reasonable times to inspect the automobile and its equipment.

**Other Insurance of the Same Interest**

8.—(1) If the insured named in the policy has or places any additional or other valid insurance of his interest in the subject matter of the contract or any part thereof the insurer shall be liable only for its rateable proportion of any loss or damage.

(2) Where by any other valid insurance indemnity is provided for a claim under this policy against a person not named herein but insured hereby, the insurer shall only be liable under this policy, in respect of any such claim, to the extent of any deficiency in the amount of such other insurance of such claim, not exceeding in any event the limits of liability of the insurer under this policy.

**Time and Manner of Payment of Insurance Money**

9.—(1) An insurer shall pay the insurance money for which it is liable under a contract within sixty days after the proof of loss has been received by it, or, where an appraisal is had under statutory condition 5, within fifteen days after the award is rendered by the appraisers.

**When Action May be Brought**

(2) The insured may not bring an action to recover the amount of a claim under the policy unless the requirements of statutory conditions 4 and 5 are complied with nor until the amount of the loss has been ascertained as therein provided, or by a judgment against the insured after trial of the issue, or by agreement between the parties with the written consent of the insurer.

**Limitation of Actions**

(3) Every action or proceeding against an insurer under a contract in respect of loss or damage to the automobile shall be commenced within one year next after the happening of the loss and not afterwards, and in respect of loss or damage to persons or property shall be commenced within one year next after the cause of action arose, and not afterwards.



**Who May Give Notice and Proofs of Claim**

10. Notice of claim may be given and proofs of claim may be made by the agent of the insured named in the policy in case of absence or inability of such insured to give the notice or make the proof, such absence or inability being satisfactorily accounted for, or in the like case, or if such insured refuses to do so, by a person to whom any part of the insurance money is payable.

**Cancellation**

11.—(1) The policy may be cancelled at any time at the request of the insured named therein, and the insurer shall, upon surrender of the policy, refund the excess of paid premium above the customary short rate premium for the time the policy has been in force.

(2) This policy may be cancelled at any time by the insurer giving to the insured named in the policy fifteen days' notice in writing of cancellation by registered post, whether registered within or without Canada, or five days' notice of cancellation personally delivered, and refunding the excess of paid premium beyond the *pro rata* premium for the expired time. Repayment of excess premiums may be made by money, post office order, postal note or cheque. Such repayment shall accompany the notice, and in such case the fifteen days above mentioned shall commence to run from the day following the receipt of the registered letter at the post office to which it is addressed.

(3) In this condition the expression "paid premium" means premium actually paid by the insured to the insurer or its agent, and does not include any premium or part thereof paid to the insurer by an agent unless actually paid to the agent by the insured.

**Notice**

12. Any written notice to the insurer may be delivered at or sent by registered post to the chief agency or head office of the insurer in this Province. Written notice may be given to the insured named in the policy by letter personally delivered to him or by registered letter addressed to him at his last post office address notified to the insurer, or, where no address is notified and the address is not known, addressed to him at the post office of the agency, if any, from which the application was received. In this condition the expression "registered" shall mean registered within or without Canada.

1932, c. 25, s. 2, *part*; 1935, c. 29, s. 30 (2-4).

Certain conditions not part of policy.

189.—(1) If the policy does not insure against liability for loss or damage to persons or property, statutory condition 4 shall not be deemed to be part of the policy.

*Idem.*

(2) If the policy does not insure against loss of or damage to an automobile, statutory condition 5 shall not be deemed to be part of the policy. 1932, c. 25, s. 2, *part*.

Policy to be approved by Superintendent.

190.—(1) No insurer shall issue or deliver a policy in the Province until a copy of the form of policy has been on file with the Superintendent for at least thirty days, unless sooner approved in writing by him, nor if within that period the Superintendent notifies the insurer in writing that the said form of policy is not approved.

Superintendent to give reasons for disapproval.

(2) The Superintendent shall, on being so required, specify the reasons for not approving or for disapproving thereof. 1932, c. 25, s. 2, *part*.

**191.**—(1) Where an applicant for a contract falsely describes the automobile to be insured, to the prejudice of the insurer, or knowingly misrepresents or fails to disclose in the application any fact required to be stated therein or where the insured violates any term or condition of the policy or commits any fraud, or makes any wilfully false statement with respect to a claim under the policy, any claim by the insured shall be rendered invalid and the right of the insured to recover indemnity shall be forfeited. Misrepresentation or violation of conditions renders claim invalid.

(2) Where a written application for a contract is made, no statement of the applicant shall be used in defence of a claim under the policy, unless it is contained in the written application. 1932, c. 25, s. 2, *part*. No defence where statement not in written application.

**192.** Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured or other matter or thing required to be done or omitted by the insured with respect to the loss, and a consequent forfeiture or avoidance of the insurance in whole or in part, and the Court deems it inequitable that the insurance should be forfeited or avoided on that ground, the Court may relieve against the forfeiture or avoidance on such terms as it may deem just. 1932, c. 25, s. 2, *part*. Relief from forfeiture.

**193.** Insurance money shall be payable in the Province in lawful money of Canada. 1932, c. 25, s. 2, *part*. How policy payable.

**194.** No term or condition of a contract shall be deemed to be waived by the insurer in whole or in part, unless the waiver is stated in writing and signed by an agent of the insurer. 1932, c. 25, s. 2, *part*. Waiver.

**195.**—(1) The insurer, upon making any payment assuming liability therefor under a contract of automobile insurance, shall be subrogated to all rights of recovery of the insured against any person and may bring action in the name of the insured to enforce such rights. Subrogation.

(2) If the net amount recovered, after deducting the costs of such recovery is not sufficient to provide a complete indemnity for the loss or damage suffered, such amount shall be divided between the insurer and the insured in the proportions in which such loss or damage has been borne by them respectively. 1935, c. 29, s. 31. Where amount recovered is not sufficient to indemnify.

**196.** No red ink shall be used in printing a policy, except for the name, address and emblem of the insurer, the policy number and for the purposes mentioned in this Part. 1932, c. 25, s. 2, *part*. Use of red ink.

Rights of  
insured  
preserved.

**197.** Any act or omission of the insurer resulting in non-compliance or imperfect compliance with any of the provisions of this Part shall not render a contract invalid as against the insured. 1932, c. 25, s. 2, *part*.

*Motor Vehicle Liability Policies.*

Coverage  
of owner's  
policy.

**198.**—(1) Every owner's policy shall insure the person named therein, and every other person who, with his consent, uses any automobile designated in the policy, against the liability imposed by law upon the insured named therein or upon any such other person for loss or damage,—

- (a) arising from the ownership, use or operation of any such automobile within Canada or the United States of America, or upon a vessel plying between ports within those countries; and
- (b) resulting from
  - (i) bodily injury to or death of any person; or
  - (ii) damage to property; or
  - (iii) both. 1932, c. 25, s. 2, *part*; 1935, c. 29, s. 32.

Rights of  
unnamed  
insured.

(2) Any person insured by but not named in a policy may recover indemnity in the same manner and to the same extent as if named therein as the insured, and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor. 1932, c. 25, s. 2, *part*.

Coverage  
of driver's  
policy.

**199.** Every driver's policy shall insure the person named therein against the liability imposed by law upon such insured for loss or damage,—

- (a) arising from the operation or use by him of any automobile, other than an automobile owned by or registered in the name of such insured, while he is personally in control as driver or occupant of such automobile within Canada or the United States of America, or upon a vessel plying between ports within those countries; and
- (b) resulting from
  - (i) bodily injury to or death of any person; or
  - (ii) damage to property; or
  - (iii) both. 1932, c. 25, s. 2, *part*.

Additional  
agreements.

**200.** Under an owner's policy or a driver's policy the insurer shall,—

- (a) upon receipt of notice of loss or damage caused to persons or property, serve the insured by such investi-



gation thereof, or by such negotiations with the claimant, or by such settlement of any resulting claims, as may be deemed expedient by the insurer; and

- (b) defend in the name and on behalf of the insured and at the cost of the insurer any civil action which may at any time be brought against the insured on account of loss or damage to persons or property; and
- (c) pay all costs taxed against the insured in any civil action defended by the insurer and any interest accruing after entry of judgment upon that part of the judgment which is within the limits of the insurer's liability; and
- (d) in case the injury be to a person, reimburse the insured for outlay for such medical aid as may be immediately necessary at the time. 1932, c. 25, s. 2, *part.*

**201.** The insurer shall not be liable under an owner's policy or a driver's policy,—

Exceptions  
from  
liability.

- (a) for any liability imposed by any workmen's compensation law upon the insured; or
- (b) for loss or damage resulting from bodily injury to or the death of the insured or the son, daughter, wife, husband, mother, father, brother or sister of the insured; or
- (c) to any person, not the owner of the automobile, engaged in the business of an automobile garage, repair shop or service station or as an automobile dealer, for loss or damage sustained while engaged in the operation or repair of the automobile;

or, unless the coverage is expressly extended under section 203,

- (d) for any loss or damage resulting from bodily injury to or the death of any person being carried in or upon or entering or getting on to or alighting from the automobile; or
- (e) for loss or damage to property carried in or upon the automobile or owned by, or in the care, custody or control of the insured; or
- (f) for loss or damage resulting from bodily injury to or the death of any employee of the insured while

engaged in the operation or repair of the automobile. 1932, c. 25, s. 2, *part*; 1933, c. 22, s. 15; 1935, c. 29, s. 33.

Minimum  
liability  
under policy.

**202.** Every owner's policy and driver's policy shall insure, in case of bodily injury or death, to the limit of at least \$5,000 (exclusive of interest and costs) against loss or damage resulting from bodily injury to or the death of any one person, and, subject to such limit, for any one person so injured or killed, of at least \$10,000 (exclusive of interest and costs) against loss or damage resulting from bodily injury to or death of two or more persons in any one accident, or, in case of property damage, to the limit of at least \$1,000 (exclusive of interest and costs) for damage to property resulting from any one accident. 1932, c. 25, s. 2, *part*; 1935, c. 29, s. 34.

Extended  
coverage.

**203.** The insurer may, by an endorsement on the policy and in consideration of an additional stated premium, and not otherwise, extend the coverage in whole or in part in any or all of the following respects,—

- (a) in the case of an owner's policy or a driver's policy, the matters mentioned in clauses *d*, *e* and *f* of section 201; and
- (b) in the case of an owner's policy, the operation or use of automobiles not owned by nor registered in the name of the insured; and
- (c) in the case of an owner's policy or a driver's policy, such other matters as may be approved by the Superintendent. 1932, c. 25, s. 2, *part*; 1935, c. 29, s. 35.

Policy in  
special cases.

**204.** Where any provision of sections 198 to 203 is inapplicable by reason of the requirements of any Act or, in the opinion of the Superintendent, unsuitable to any special form of contract, he may approve a form of motor vehicle liability policy sufficient or appropriate to insure the risks required or proposed to be insured and in that case those sections shall not apply. 1932, c. 25, s. 2, *part*; 1933, c. 22, s. 16.

Application  
of insurance  
money  
under motor  
vehicle  
liability  
policy.

**205.**—(1) Any person having a claim against an insured, for which indemnity is provided by a motor vehicle liability policy, shall, notwithstanding that such person is not a party to the contract, be entitled, upon recovering a judgment therefor against the insured, to have the insurance money payable under the policy applied in or towards satisfaction of his judgment and of any other judgments or claims against

the insured covered by the indemnity and may, on behalf of himself and all persons having such judgments or claims, maintain an action against the insurer to have the insurance money so applied.

(2) No creditor of the insured shall be entitled to share in the insurance money payable under any such policy in respect of any claim for which indemnity is not provided by the policy. Other creditors not entitled to share.

(3) (i) No assignment, waiver, surrender, cancellation or discharge of the policy, or of any interest therein or of the proceeds thereof, made by the insured after the happening of the event giving rise to a claim under the policy, and Insurer absolutely liable.

(ii) no act or default of the insured before or after such event in violation of the provisions of this Part or of the terms of the contract, and

(iii) no violation of the *Criminal Code* or of any law or statute of any province, state or country, by the owner or driver of the automobile,

shall prejudice the right of any person, entitled under subsection 1, to have the insurance money applied upon his judgment or claim, or be available to the insurer as a defence to such action.

(4) The insurer may require any other insurers liable to indemnify the insured in respect of judgments or claims referred to in subsection 1 to be made parties to the action and to contribute rateably according to their respective liabilities, and the insured shall, on demand, furnish the insurer with particulars of all other insurance covering the subject matter of the contract. 1932, c. 25, s. 2, *part*. Contribution among insurers.

(5) Where a policy provides for coverage in excess of the limits mentioned in section 202 or for extended coverage in pursuance of section 203, nothing in this section shall, with respect to such excess coverage or extended coverage, prevent the insurer from availing itself, as against any claimant, of any defence which the insurer is entitled to set up against the insured. 1932, c. 25, s. 2, *part*; 1935, c. 29, s. 36 (1). Defence where excess or extended coverage.

(6) The insured shall be liable to pay or reimburse the insurer, upon demand, any amount which the insurer has paid by reason of the provisions of this section which it would not otherwise be liable to pay. 1932, c. 25, s. 2, *part*. Liability of insured to reimburse insurer.



Insurer may  
be made  
third party.

(7) Where an insurer denies liability under a motor vehicle liability policy it shall have the right upon application to the court to be made a third party in any action to which the insured is a party and in which a claim is made by any party to the action for which it is or might be asserted indemnity is provided by the said policy. 1935, c. 29, s. 36 (2).

Insured to  
give notice  
of action  
and disclose  
insurance.

**206.** Every insured against whom an action is commenced for damages occasioned by an automobile shall,—

- (a) give notice thereof in writing to the insurer within five days after service of notice or process in the action, and
- (b) disclose to a judgment creditor entitled to the benefit of any motor vehicle liability policy particulars of such policy within ten days after written demand therefor. 1932, c. 25, s. 2, *part*.

#### *Policies Other Than Motor Vehicle Liability Policies.*

Partial  
payment of  
loss clause.

**207.** A policy, other than a motor vehicle liability policy, may contain a clause to the effect that the insurer in the event of loss shall pay only an agreed portion of any loss which may be sustained or the amount of the loss after deduction of a sum specified in the policy, in either case not exceeding the amount of the insurance, in which case there shall be printed upon the face of the policy in conspicuous type, in red ink, the words, "This policy contains a partial payment of loss clause." 1932, c. 25, s. 2, *part*.

Claims to  
be adjusted  
with insured.

**208.** Where a claim is made under any policy other than a motor vehicle liability policy, the insurer shall, notwithstanding any agreement, adjust the amount of the claim with the insured named in the policy as well as with any person having an interest indicated in the policy. 1932, c. 25, s. 2, *part*.

### PART VII.

#### ACCIDENT AND SICKNESS INSURANCE.

Application.

**209.**—(1) This Part shall apply to accident and sickness insurance and to an insurer undertaking accident and sickness insurance in the Province but shall not apply to any fraternal society or to its contracts. R.S.O. 1927, c. 222, s. 184 (1).

Disability  
insurance.

(2) This Part shall not apply to a contract of life insurance to which Part V applies, notwithstanding that such contract includes provisions for special benefits or indemnities upon death by accident, or upon disability which is by the terms of

the contract deemed to be total and permanent, or upon total disability which exists for a continuous period of not less than three months or ninety days, according as the contract may provide. 1928, c. 35, s. 4, *part*.

(3) Subject to the provisions of subsection 2, contracts insuring against death by accident and not against death from other causes, shall be deemed to be accident insurance contracts within the meaning of this Part and not life insurance contracts within the meaning of Part V. 1931, c. 49, s. 11 (1). Provisions governing accident insurance contracts.

(4) This Part, except section 217, shall not apply to a contract made with an employer and insuring his employees or made with a representative of a group and insuring such group for the individual benefit of the employees or persons insured thereby, but sections 131, 144 to 148 and 175 shall apply to any such contract. 1928, c. 35, s. 4, *part*. Group insurance.

(5) Sections 131, 144 to 149 and 175 and no other provision contained in Part V. shall apply to contracts to which this Part applies. 1928, c. 35, s. 4, *part*; 1931, c. 49, s. 11 (2). Application of Part V.

**210.**—(1) Where the contract of insurance has been delivered it shall be as binding on the insurer as if the premium had been paid, although it has not in fact been paid, and although delivered by an officer or agent of the insurer who had not authority to deliver it. Delivery of policy.

(2) The insurer may sue for the unpaid premium and may deduct the same from the amount for which he may become liable under the contract. Right where premium unpaid.

(3) Where the premium is paid by a cheque or a promissory note and the cheque is not paid on presentation or the promissory note at maturity the contract shall at the option of the insurer be voidable. R.S.O. 1927, c. 222, s. 185. Where note for premium not paid.

**211.** Every policy shall contain the name and address of the insurer, the name and address and occupation or business of the insured, the name of the person to whom the insurance money is payable, the premium for the insurance, the indemnity for which the insurer may become liable, the event on the happening of which such liability is to accrue, and the term of the insurance. 1928, c. 35, s. 5. Contents of policy.

**212.** The conditions set forth in this section shall be deemed, subject to the provisions of sections 213 to 215, to be part of every contract of accident and of sickness insurance in force in Ontario, and shall be printed on every policy hereafter issued under the heading "Statutory Conditions." R.S.O. 1927, c. 222, s. 187, *part*. Statutory conditions.

## STATUTORY CONDITIONS

- The Contract** 1. This policy, including the endorsements and attached papers, if any, contains the entire contract of insurance except as it may be modified by the insurer's classification of risks and premium rates as provided by condition 3.
- Material Facts** 2. All statements made by the insured upon the application for this policy shall, in the absence of fraud, be deemed representations and not warranties, and no such statement shall be used in defense of a claim under this policy unless it is contained in the written application for the policy and unless a copy of the application, or such part thereof as is material to the contract, is endorsed upon or attached to the policy when issued.
- Change to More Hazardous Occupation** 3. If a *bodily injury or any sickness* insured against happens to the insured while engaged temporarily or permanently in an occupation classified as more hazardous than that stated herein to be the occupation of the insured, the liability under this policy shall be limited to such amount as the premium paid would have purchased for the more hazardous occupation according to the limits, classification of risks and premium rates of the insurer last filed with the Superintendent of Insurance; provided that the performance of ordinary duties about his residence or while engaged in recreation shall not be regarded as a change of occupation by the insured.
- Change to Less Hazardous Occupation** 4. If the insured shall, at any time, change his occupation either temporarily or permanently to an occupation classified by the insurer as less hazardous than that stated in the policy to be the occupation of the insured, the insurer shall, upon written request of the insured and surrender of this policy, issue a policy for the unexpired term at the lower rate of premium applicable to such less hazardous occupation, and the insurer shall return to the insured the amount by which the unearned premium on the original policy exceeds the premium charge at such lower rate for the unexpired term.
- Commencement of Contract** 5. Unless otherwise specifically stated in this policy, the insurer is not liable for any loss occasioned by sickness contracted by the insured within fifteen days from noon, standard time, of the day on which the policy comes into force.
- Limited Liability of Insurer** 6. If the *accident or sickness* benefits for loss of time secured hereunder, together with the *accident or sickness* benefits payable under other contracts of insurance upon the person of the insured, make up an aggregate indemnity in excess of the money value of the time of the insured, the insurer shall be liable only for such proportion of the benefits stated in this policy as the money value of the time of the insured bears to the aggregate of the benefits payable under all such contracts on the person of the insured, and the excess premium, if any, paid by the insured shall be returned to him by the insurer.
- Notice to Insurer** 7. Any written notice to the insurer may be delivered at or sent by registered post to the chief agency or head office of the insurer in the province or delivered or sent to any authorized agent of the insurer therein.
- Notice to Insured** 8. Any written notice may be given to the insured by letter personally delivered to him or by registered letter addressed to him at his last post office address notified to the insurer, or where not notified and the address is not known, addressed to him at the agency, if any, at which the application was received.
- Termination by Insurer** 9. The insurance may be terminated by the insurer at any time by giving to the insured ten days' notice of cancellation by registered mail or five days' notice of



cancellation personally delivered to the insured and refunding in either case the excess of paid premium beyond the *pro rata* premium for the expired time.

**Termination by Insured** 10. The insurance may be terminated by the insured at any time by giving written notice of termination to the insurer, in which case the insurer shall, upon surrender of this policy, refund the excess of paid premium beyond the customary short rate for the expired time.

**Repayment of Excess Premium** 11. In the case of termination of the insurance by the insurer, repayment of the excess premium may be made in money, by post office order, postal note or cheque payable at par, certified by a chartered bank doing business in the province. If the notice is given by registered letter, such repayment shall accompany the notice, and, in such case, the ten days mentioned in condition 9 shall commence to run from the day following the receipt of a registered letter at the post office to which it is addressed.

**Notice and Proof of Claim** 12. Any person entitled to make a claim under this policy shall:

(a) give notice of claim in writing to the insurer not later than thirty days *from the date of the accident or from the date of the commencement of disability from sickness*; provided that failure to give notice shall not invalidate the claim if it is shown that it was not reasonably possible to give such notice within such time, and that notice was given as soon as was reasonably possible;

(b) furnish to the insurer such proof of claim as is reasonably possible in the circumstances of the happening of the *accident or sickness* and the loss occasioned thereby, *within ninety days after the happening of the accident, or, in the case of sickness, within ninety days after the date of commencement of the period of disability from sickness for which the insurer is liable*;

(c) if so required by the insurer, furnish a certificate from a licensed medical practitioner as to the cause and nature of the *accident or sickness* for which the claim is made and as to duration of the disability caused thereby.

**Insurer to Furnish Forms for Proof of Claim** 13. The insurer shall, upon receiving notice of accident or sickness, furnish to the claimant such forms as are usually furnished by them for proofs of claim, and if such forms are not so furnished within fifteen days after receipt of such notice, the claimant shall be deemed to have complied, with the requirements of the policy as to proof of claim if he submits, within the time fixed in this policy for filing such proofs, a written statement of the happening and character of the *accident or sickness* and of the extent of the loss for which the claim was made.

**Right of Examination** 14. The insurer shall have the right, and the claimant shall afford to the insurer an opportunity, to examine the person of the insured when and as often as it may reasonably require while the claim hereunder is pending, and also, in the case of death of the insured, to make an autopsy subject to any law of the province relating to autopsies.

**Claimant Other Than Beneficiary** 15. Any claim made under this policy by a claimant other than the beneficiary named in the policy shall be subject to proof of the interest of the claimant.

**Who May Give Notice and Proofs of Claim** 16. Notice of claim may be given and proofs of claim may be made by the agent of the insured, or of the beneficiary in case of the absence of the insured or beneficiary, or in case of inability of the insured or the beneficiary to give the notice or make the proof, such absence or inability

being satisfactorily accounted for, or in the like case, or if the insured refuses to do so, by a person to whom any part of the insurance money is payable.

**When Moneys Other Than for Disability Payable** 17. All moneys payable under this policy for loss other than that of time on account of disability shall be paid within sixty days after the receipt of proofs of claim.

**When indemnity on Account of Disability Payable** 18. The indemnity for loss of time on account of disability shall be paid within thirty days after proof of claim and, as long as the insurer remains liable for the disability, at the expiration of every succeeding sixty days; provided that the insurer may, in case the disability continues, require proof thereof for each such period of sixty days, which proof shall be furnished within ninety days after the termination of each period in respect of which the claim is made.

**Right of Insured to Assign Policy** 19. Where moneys are payable under this policy upon the death of the insured by accident, the insured may from time to time designate a beneficiary, appoint, appropriate or apportion such moneys and alter or revoke any prior designation, appointment, appropriation or apportionment.

**Waiver** 20. The insurer shall not be deemed to have waived any condition of this policy, either in whole or in part, unless the waiver is clearly expressed in writing, signed by the insurer.

**Limitation of Actions** 21. Any action or proceeding against the insurer for the recovery of any claim under this policy shall be commenced within one year after the cause of action arose.

R.S.O. 1927, c. 222, s. 187, cons.; 1928, c. 35, s. 6 (1, 2).

Certain conditions to be omitted from policy in special cases.

**213.**—(1) If the policy does not insure against accident, the words of conditions numbers 3, 6, 12 and 13 relating to accident and printed in italics may be omitted from the policy.

Idem.

(2) If the policy does not insure against sickness, condition number 5, and also the words of conditions numbers 3, 6, 12 and 13, relating to sickness and printed in italics, may be omitted from the policy.

Idem.

(3) If the policy provides that the contract may not be terminated by the insurer at any time, the conditions numbered 9, 10 and 11 may be omitted from the policy.

Special cases.

(4) If the perils insured against are so limited that any condition other than those enumerated in this section, or any part of such a condition, has no application to the contract, the insurer may, with the approval of the Superintendent, omit such condition or part of a condition from the policy.

Proviso.

(5) If an entire condition is omitted pursuant to this section, there shall be inserted after the condition number the following words within brackets (*"This condition is not applicable to this policy and is omitted pursuant to statute"*). R.S.O. 1927, c. 222, s. 188.

**214.** Where a policy of accident insurance is issued in the form of a ticket through the agency of a railway corporation, the statutory conditions set out in section 212 need not be printed on the ticket if such policy contains the following notice printed in conspicuous type: "This policy is issued subject to the statutory conditions respecting contracts of accident insurance." R.S.O. 1927, c. 222, s. 189.

**215.**—(1) If an insurer desires to vary, omit, or add to the statutory conditions or any of them, except as provided in sections 213 and 214, there shall be printed in conspicuous type not less in size than ten point, and in red ink, immediately after such conditions, the proposed variations or additions or a reference to the omissions, with these introductory words:

*"Variations in Conditions."*

"This policy is issued on the above statutory conditions with the following variations, omissions or additions, which are, by virtue of the law of this Province, in force so far only as they shall be held to be just and reasonable to be exacted by the insurer." R.S.O. 1927, c. 222, s. 192 (1); 1928, c. 35, s. 9 (1).

(2) No variation, omission or addition except as provided in sections 213 and 214 shall be binding upon the insured unless the foregoing provisions of this section have been complied with, and any variation, omission or addition shall be so binding only in so far as it is held by the court before which a question relating thereto is tried, to be just and reasonable. R.S.O. 1927, c. 222, s. 192 (2); 1928, c. 35, s. 9 (2).

**216.** No red ink shall be used on the face of a policy except the name, address and emblem of the insurer, and the policy number, and for the purposes mentioned in this Act. R.S.O. 1927, c. 222, s. 193.

**217.** In any case where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured or as to any matter or thing to be done or omitted by the insured after the maturity of the contract, and a consequent forfeiture or avoidance of the insurance in whole or in part, and the court deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it may deem just. R.S.O. 1927, c. 222, s. 194.



## PART VIII.

## LIVE STOCK INSURANCE.

Application  
of Part.

**218.** This Part shall apply to live stock insurance and to any insurer carrying on the business of live stock insurance in the Province. R.S.O. 1927, c. 222, s. 195.

Property  
which may  
be insured.

**219.** Every insurer licensed for the transaction of live stock insurance may, within the limits and subject to the conditions prescribed by the license, insure against loss of live stock, by fire, lightning, accident, disease or other means, except that of design on the part of the insured, or by the invasion of any enemy or by insurrection. R.S.O. 1927, c. 222, s. 196.

Application  
of provisions  
as to fire  
insurance.

**220.** The following provisions of Part IV shall apply to live stock insurance contracts,—

- (a) the provisions as to the form and contents of the policy;
- (b) the provisions as to the conditions including the statutory conditions, except where inapplicable to the nature of the risk;
- (c) the provisions relating to premium notes and assessments other than sections 113, 114 and 123, when the insurance is on the premium note plan. R.S.O. 1927, c. 222, s. 197.

Term of  
contract.

**221.**—(1) Contracts of insurance shall not in any case exceed the term of two years.

Renewing  
policies.

(2) A contract made for one year or any shorter period may be renewed from time to time at the discretion of the directors by renewal receipt instead of by policy, on the assured paying the required premium or giving his premium note, and all payments or renewal by cash or premium notes shall be made at or before the end of the period for which the policy was granted or renewed, otherwise the policy shall be void.

Premium  
note.

(3) No premium note taken under any contract of insurance shall exceed forty per centum or be less than ten per centum per annum of the sum insured, and no renewal receipt shall extend the contract beyond two years from the date of the policy. R.S.O. 1927, c. 222, s. 198.

## PART IX.

## WEATHER INSURANCE

**222.** This Part shall apply to weather insurance and to any insurer carrying on the business of weather insurance in the Province. R.S.O. 1927, c. 222, s. 199. Application of Part.

**223.** Every insurer licensed for the transaction of weather insurance may, within the limit and subject to the conditions prescribed by the license, insure against such atmospheric disturbances, discharges or conditions as the contract of insurance shall specify. R.S.O. 1927, c. 222, s. 200. What may be insured.

**224.**—(1) The following provisions of Part IV shall apply to weather insurance contracts,— Application of certain provisions as to fire insurance.

- (a) the provisions as to the form and contents of the policy;
- (b) the provisions as to conditions, including the statutory conditions, except where inapplicable to the nature of the risk;
- (c) the provisions relating to premium notes and assessments other than sections 113, 114 and 123, where the insurance is on the premium note plan.

(2) The following additional conditions shall form part of every weather insurance contract,— Additional conditions.

- (i) the insurance may be terminated by the insurer by giving seven days' notice to that effect; Termination.
- (ii) the insurer is not liable for loss or damage occurring to buildings or structures or to their respective contents where the buildings or structures have been weakened by subsequent alterations unless permission to make such alterations has been previously granted in writing signed by a duly authorized agent of the insurer. R.S.O. 1927, c. 222, s. 201. Where buildings weakened by alterations made without consent.

**225.** A contract of weather insurance shall not in any case exceed the term of three years. R.S.O. 1927, c. 222, s. 202. Term of contract.

**226.** On every premium note taken by the insurer there shall be payable at the commencement of each year of insurance a cash payment amounting to at least one-fifth of one per centum of the sum insured or *pro rata* when the cash pay- Premium note.

ment is paid in advance for a longer term, and the premium note shall, as to the balance thereof, be subject to assessment by the directors; provided that when the amount of insurance in force exceeds \$3,000,000 and the total assets of the company do not fall below two per centum of the total amount at risk, the Superintendent may authorize the reduction of the cash payment to one-eighth of one per centum of the sum insured per annum, or *pro rata* for a longer term. R.S.O. 1927, c. 222, s. 203.

## PART X.

### FRATERNAL SOCIETIES.

Interpreta-  
tion.

**227.** In this Part,—

"Actuary."

1. "Actuary" means a Fellow of the Actuarial Society of America, or of the Institute of Actuaries of Great Britain, or of the Faculty of Actuaries in Scotland, provided however, that an actuary who, for a period of not less than five years preceding the date of the passing of this Act, has been serving a licensed fraternal society transacting business in Ontario on the said date as its actuary, and who has been in active practice as an actuary for a period of not less than twenty-five years prior to the said date, may for the purpose of this Act, with the consent of the Superintendent, be continued as an actuary of any such society by which at the said date he is employed as actuary;

"Rates of  
contribution."

2. "Rates of contribution" means the regular net premiums, dues, rates or contributions receivable from the members for the purpose of the payment at maturity of the society's certificates or contracts of insurance;

"Society."

3. "Society" means fraternal society. R.S.O. 1927, c. 222, s. 204.

Application  
of Part.

**228.**—(1) Subject to the provisions of subsection 2, this Part shall apply to all fraternal societies carrying on the business of life insurance in Ontario.

Application  
of ss. 244 to  
249 to certain  
societies.

(2) Sections 244 to 249 shall not apply to a fraternal society the membership of which is limited by its constitution or laws to municipal or government employees. R.S.O. 1927, c. 222, s. 205.



**229.** Fraternal societies required to be licensed under the provisions of this Act include the following,—

What fraternal societies required to be licensed.

- (a) a company, society, association or organization incorporated before the 10th day of March, 1890, under chapter 172 of The Revised Statutes of Ontario, 1887, or under any Act for which the said Act was substituted;
- (b) a society incorporated under the provisions of chapter 183 of The Revised Statutes of Ontario, 1914, which undertakes insurance against death or under any Act for which the said Act was substituted;
- (c) an association of the civil servants or employees of the Dominion of Canada incorporated by or under the authority of an Act of the Parliament of Canada;
- (d) a fraternal society incorporated after the 1st day of January, 1924, under the provisions of *The Companies Act*. R.S.O. 1927, c. 222, s. 206.

Rev. Stat. c. 251.

**230.** No fraternal society shall be licensed,—

Cases in which such societies not to be licensed.

- (a) if it undertakes insurance contracts with persons other than its own members; or  
R.S.O. 1927, c. 222, s. 207, cl. (a).
- (b) if it insures or indemnifies against contingencies other than sickness, accident, disability, or death, or funeral expenses, or if the sum or sums payable on the death of any one person, other than a funeral benefit or a double indemnity accident benefit, exceed in all \$10,000; or  
R.S.O. 1927, c. 222, s. 207, cl. (b); 1930, c. 41, s. 8.
- (c) if it undertakes old age or endowment insurance other than as authorized in sections 254 and 255, or annuities upon lives; or
- (d) if it has upon its books less than seventy-five members in good standing; or
- (e) if it is in effect the property of its officers or collectors, or of any other person for his own benefit, or is conducted as a mercantile or business enterprise, or for the purpose of mercantile profit, or if its funds are under the control of persons or officers appointed for life and not under that of the insured; or

- (f) in the case of a fraternal society which has not been authorized to carry on business in Ontario before the 1st day of January, 1925, unless the society files with the Superintendent a declaration of its actuary in the form and to the effect required by the provisions of subsection 2 of section 243. R.S.O. 1927, c. 222, s. 207, cls. (c-f).

Societies not  
deemed to  
be fraternal  
societies.

**231.** The following shall not be deemed fraternal societies within the meaning of this Part or required or entitled to be licensed as such,—

- (a) societies known as mutual benefit societies as defined in section 1 and subject to Part XI, including;
- (i) a society incorporated under the provisions of sections 36 to 41 of chapter 183 of the Revised Statutes of Ontario, 1914, or any Act for which the same was substituted which does not undertake contracts of life insurance;
  - (ii) a trade union in Ontario which, under the authority of its incorporating Act, or charter, has an insurance or benefit fund for the benefit of its own members exclusively;
  - (iii) a mutual benefit society incorporated after the 1st day of January, 1925, under the provisions of *The Companies Act*;
- (b) pension fund and employees' benefit societies incorporated under the provisions of *The Companies Act*;
- (c) a corporation not otherwise provided for in this Act which has by or under the authority of an Act of the Parliament of Canada created a fund for paying a gratuity on the happening of death, sickness, infirmity, casualty, accident, disability or any change of physical or mental condition;
- (d) a corporation not otherwise provided for in this Act which has by or under the authority of an Act of the Parliament of Canada an insurance and provident society or association, or an insurance or guarantee fund in connection with the corporation; R.S.O. 1927, c. 222, s. 208, cls. (a-d).
- (e) a corporation which undertakes or offers to undertake contracts of insurance prohibited by section 230; 1930, c. 41, s. 9.

Rev. Stat.  
c. 251.

(f) a corporation in which the insurance fund is used for the purposes of a mercantile or business enterprise, or for mercantile profit, or a society formed on the lodge system, the insurance fund of which is held other than as a trust fund for the members insured; R.S.O. 1927, c. 222, s. 208, cl. (f).

(g) a society in which the persons insured do not exercise, either directly or through representatives elected for a term not exceeding four years, effective control over the insurance fund of the society, or in which the officers or other persons having the disposition, control or possession of the insurance fund are elected or appointed for a longer period than four years; R.S.O. 1927, c. 222, s. 208, cl. (g); 1928, c. 35, s. 10.

(h) any corporation which undertakes contracts of insurance but is not formed exclusively for that purpose and which does not for the purposes of such contracts keep distinct and separate funds, securities, books and vouchers. R.S.O. 1927, c. 222, s. 208, cl. (h).

**232.**—(1) Clause *c* of section 230 and clause *e* of section 231 shall not apply to contracts guaranteeing the fidelity of officers, servants or employees of the branches or subdivisions of the corporation, and shall not disentitle to license a fraternal society which before the 1st day of January, 1925, was *bona fide* transacting exclusively with its members endowment insurance in Ontario, and which has continued so to do up to the date of application for license. Guarantee and endowment insurance.

(2) Clause *c* of section 230, in so far as it relates to annuities upon lives, shall not apply to or disentitle to license any society the membership of which is limited by its constitution or laws to municipal or government employees undertaking annuities on lives in the nature of old age pensions. R.S.O. 1927, c. 222, s. 209. Societies composed of municipal or government employees.

**233.**—(1) Where two or more lodges or branches of a society, though separately incorporated, are under the financial or administrative control of a central governing body in Ontario, or a duly authorized provincial representative of the society, such governing body if incorporated or such provincial representative of the society, may, if the Superintendent thinks proper, be dealt with as the society. Central body for Ontario or representative may be dealt with.

(2) In the case of a fraternal society incorporated elsewhere than in Ontario the central governing or controlling body in When central body for Ontario incorporated.



Ontario if incorporated by virtue of the law of Ontario may, if the Superintendent thinks proper, be dealt with as the society. R.S.O. 1927, c. 222, s. 210.

By-laws and rules to be filed with Superintendent.

**234.**—(1) Every fraternal society shall with its application for license file in the office of the Superintendent, duly certified copies in duplicate of those articles or provisions of the subsisting constitution, by-laws or rules which contain material terms not set out in the instrument of contract adopted by the society, and shall from time to time file in the office of the Superintendent duly certified copies in duplicate of every amendment, revision or consolidation of the said articles or provisions of the constitution, by-laws and rules, within thirty days after the passing or adoption of such amendment, revision or consolidation thereof.

Superintendent may take exception within 30 days.

(2) The Superintendent may within thirty days after the date of such filing take exception to any amendment or revision or any part thereof if, in his opinion, such amendment or revision or any part thereof is (i) contrary to the provisions of this Act, or (ii) actuarially unsound or (iii) oppressive to or discriminatory in application against any class of the membership of the society or (iv) unjust or unreasonable.

Notice.

(3) If the Superintendent takes exception to any such amendment or revision or any part thereof, in accordance with the provisions of this section, he shall forthwith notify the society thereof in writing and the reasons therefor.

Appeal.

(4) The society or any person who deems himself aggrieved by the decision of the Superintendent may appeal therefrom in the manner provided by section 12.

Certified by-laws and rules to be filed with Provincial Registrar.

(5) The original constitution, by-laws and rules and any amendment, revision or consolidation thereof, to which the Superintendent does not take exception, or which after the Superintendent has taken exception to any amendment or revision or any part thereof have been further amended, in accordance with the Superintendent's direction, or which after the Superintendent has taken exception to any amendment or revision or any part thereof has been approved and confirmed on appeal from the Superintendent as herein provided, shall be certified by the Superintendent to be duly passed by the society, as filed and a copy thereof so certified by the Superintendent shall be filed by him in the office of the Provincial Registrar.

By-laws and rules as filed to be binding on society.

(6) The constitution, by-laws or rules and any amendment, revision or consolidation thereof so certified shall, notwithstanding the declaration or other instrument filed under any

general or special Act, be deemed to be the rules in force on and after the date of the certificate until a subsequent amendment, revision or consolidation is in like manner certified and filed and so from time to time, and shall be binding and obligatory upon all members of the society and upon all their beneficiaries and legal representatives and upon everyone entitled to any benefit under any certificate of the society, provided that the failure of the Superintendent to take exception to any rule of the society or amendment or revision thereof and his certifying and filing of the same shall not make valid any provision of such rule which is inconsistent with the provisions of this Act.

(7) The provisions of this section shall not apply to the constitution, by-laws and rules of a society or any amendment, revision or consolidation thereof passed and adopted by the society prior to the passing of this Act. R.S.O. 1927, c. 222, s. 211. Effect of section.

**235.** Where, because of a provision in any of its rules, a society otherwise entitled to be licensed ought not, in the opinion of the Superintendent to be licensed, it shall not be entitled to a license until it has repealed or amended such rules in accordance with the direction of the Superintendent. R.S.O. 1927, c. 222, s. 212. When rules must be amended.

**236.—**(1) A copy of all rules of a society relating to its insurance contracts and to the management and application of its insurance funds shall be delivered by the society to any person requiring the same on payment of twenty-five cents. Rules deliverable on demand.

(2) If an officer or agent of a society, with intent to mislead or defraud, gives any person a copy of rules other than the rules then in force on the pretence that the same are the rules then in force, he shall be guilty of an offence. R.S.O. 1927, c. 222, s. 213. Fraudulent delivery.

**237.—**(1) Where by the constitution and rules of a society provision is made for the payment of an ascertained or ascertainable sum to a member of the society in the event of his becoming totally disabled, or of his reaching a stated age, or upon the concurrence of both events, whether such provision is combined with other life insurance or not, such society may with the approval of the Superintendent so amend its constitution and rules as to provide for the payment of such sum in equal consecutive annual instalments without interest, the payment of such instalments to be completed within a period not exceeding ten years from the happening of the event, but no person who has become entitled, or may become so entitled Substitution of instalments for gross payment.

as aforesaid, to any such annual instalment shall receive payment of the same unless at the maturity of each instalment such person has continued to be a member of the society and has paid all dues and assessments adopted by the society.

Amend-  
ments of  
rules to  
that intent  
validated.

(2) All such amendments which have heretofore been or which may hereafter be made by any society pursuant to the provisions of the constitution and rules shall be valid and binding upon all its members and upon all their beneficiaries and legal personal representatives and upon every one entitled, notwithstanding anything to the contrary in the instrument of incorporation of the society or the previous provisions of its constitution and rules.

When  
insured dies  
before re-  
ceiving all  
instalments.

(3) If a member of such society dies after becoming totally disabled or reaching the stated age, but before the payment of all instalments, the instalments unpaid shall form part of the insurance money or benefits payable upon the death of such member.

Unmatured  
policies as  
liabilities.

(4) No unmatured policy or contract of insurance shall create any claim or liability against the society while a going society, or against the estate of the society in a winding-up or liquidation, but in a winding-up or liquidation the insured or beneficiary for value under such unmatured policy or contract shall be entitled to share in the surplus assets of the society. R.S.O. 1927, c. 222, s. 214.

Limitation  
of member's  
liability in  
fraternal  
society.

**238.**—(1) The liabilities of a member under his contract shall at any date be limited to the assessments, fees and dues which became payable within the preceding twelve months and of which at such date notice had been given in accordance with the constitution and rules of the society.

Withdrawal  
of member.

(2) A member may at any time withdraw from the society by delivering or sending by registered post to the society notice in writing of his intention to withdraw and paying or tendering the assessments, fees and dues mentioned in subsection 1.

Release from  
liability.

(3) After such withdrawal the member shall become thereby released from all further liability under his contract.

Subject  
to rules.

(4) This section shall be subject to the provisions of any rules to the contrary certified by the Superintendent and filed with the Provincial Registrar as hereinbefore provided. R.S.O. 1927, c. 222, s. 215.

Notice  
before for-  
feiture of  
benefit.

**239.**—(1) No forfeiture or suspension shall be incurred by reason of any default in paying any contribution or assessment, except such as are payable in fixed sums and at fixed dates,



until after notice to the member stating the amount due by him, and that in case of default of payment within a reasonable time, not less than thirty days, to the proper officer, who shall be named in such notice, his interest or benefit will be forfeited or suspended, and default has been made by him in paying his contributions or assessment in accordance with such notice.

(2) "Fixed dates" in subsection 1 shall include any numbered day, or any Monday, Tuesday, or as the case may be, numbered, alternate or recurring, of a stated month or months. "Fixed dates."

(3) Where under the constitution or rules or by-laws of the society a defaulting member is entitled to be reinstated on payment of arrears, after a stated number of days' default, this section shall not prejudice the rights of such member. Saving rights to re-instatement.  
R.S.O. 1927, c. 222, s. 216.

**240.**—(1) Where it is stipulated that the benefit of the contract shall be suspended or reduced or forfeited for any other reason than for non-payment of money such condition shall not be valid unless it is held to be just and reasonable under the circumstances of the case. Conditions of forfeiture restricted.

(2) In any contract of which total abstinence from intoxicating liquors is made an express condition such condition shall be deemed to be just and reasonable. Condition as to abstinence.  
R.S.O. 1927, c. 222, s. 217.

**241.** Any notice required to be given to a member for any purpose of this Act or of the rules of the society may be effectually given if written or printed notice is delivered, or is sent by registered post to the member, or is left at his last known place of abode or of business or by publication in the official paper of the society. How notice may be given to members.  
R.S.O. 1927, c. 222, s. 218.

**242.** A society incorporated under any Act of this Legislature shall not be entitled to a license unless its head office is located and maintained in Ontario and the secretary and treasurer are *bona fide* residents in Ontario. Head offices of Ontario societies.  
R.S.O. 1927, c. 222, s. 219.

**243.**—(1) Subject to the provisions of subsection 4, in addition to the annual statement required to be filed under this Act, each society shall file with the Superintendent not later than the 1st day of May in each year a valuation of its certificates or contracts of insurance in force at the last preceding 31st day of December, which valuation shall have regard to the prospective liabilities of the society under its Societies to file actuarial report annually.

certificates or contracts of insurance and to the rates of contribution to be thereafter received from its members on such certificates according to the rates in force at the date of valuation and shall be made and certified by an actuary appointed by the society and shall include a valuation balance sheet in such form and detail as the Superintendent may from time to time prescribe.

Society to file declaration of actuary, under what circumstances.

(2) Where in the opinion of the actuary appointed by the society the valuation balance sheet shows that the society is in a position to provide for the payment of its contracts of insurance as they mature, without deduction or abatement and without increase in its existing rates of contribution, the society shall file with the Superintendent a declaration of the actuary to that effect.

Distribution of summary and statement to members.

(3) A summary of the valuation certified by the actuary and a statement as to the financial condition of the society disclosed by such valuation shall be mailed to each insured member not later than the 1st day of June in each year or in lieu thereof such certified summary of the valuation and statement of the actuary may be published in the society's official paper and a copy mailed to each insured member.

Exception as to certain fraternal societies.

(4) A fraternal society the membership of which is limited by its constitution or laws to municipal or government employees shall not be required to file the valuation mentioned in subsection 1 or to publish the summary thereof mentioned in subsection 3 unless and until required by the Superintendent in writing so to do. R.S.O. 1927, c. 222, s. 220.

Where assets of society insufficient, Superintendent to report to Minister.

**244.**—(1) If it appears to the Superintendent from the statement and reports filed with him or from an examination or valuation made in pursuance of this Act, that the assets of a licensed fraternal society applicable to the payment of its insurance contracts are insufficient to provide for the payment of its contracts of insurance at maturity without deduction or abatement and without increase in its existing rates of contribution, he shall make a special report to the Minister as to the financial condition of the society.

Minister may request society to increase its rates, etc.

(2) If the Minister, after consideration of the said report concurs in the opinion of the Superintendent, the Minister shall request the society to make, within such time as he may prescribe, but not exceeding four years, such increase in its rates of contribution or such reduction in the benefits payable under its contracts of insurance or otherwise, as will enable the society to provide for the payment of its contracts of insurance at maturity.

(3) On receipt of such request the society shall take the steps prescribed by its laws or constitution for putting into effect such changes as may be approved by the actuary appointed by the society for the purpose aforesaid. Society to act upon request.

(4) Where in the opinion of the governing executive authority of the society a special meeting of the society is desirable for the purpose of considering the request of the Minister, the said governing executive authority of the society may call a special meeting of the supreme legislative body of the society upon such notice as the said governing executive authority may deem reasonable, and as the Superintendent may approve and such meeting so called shall be deemed to have been regularly constituted notwithstanding any provisions contained in the constitution and laws of the society. R.S.O. 1927, c. 222, s. 221. Special meeting to consider request of Minister.

**245.** A fraternal society incorporated under the laws of Ontario may by amendment of its constitution and laws reduce the benefits payable under its contracts of insurance or some of them, or increase the rates of contribution payable by its members as a whole or some class or classes thereof, or make such other changes as are necessary to comply with the aforesaid request of the Minister and such amendments when adopted by a majority of the votes duly cast by the members of the supreme legislative body of the society at a regular or special meeting of the said supreme legislative body of the society duly called shall be binding upon the members of the society and upon their beneficiaries or legal representatives and upon all persons deriving legal rights from any member or beneficiary, notwithstanding anything contained in the provisions of its constitution and laws before such amendments or in its Act or instrument of incorporation, or in any contract, policy or certificate of insurance heretofore or hereafter issued by the society. R.S.O. 1927, c. 222, s. 222. Reduction of benefits, or increase of rates.

**246.**—(1) Where any society does not within the time allowed comply with the request of the Minister as prescribed by subsection 2 of section 244 the Superintendent shall report the default to the Minister, who shall thereupon appoint a readjustment committee of three persons of whom at least one shall be an actuary who shall at as early a date as practicable investigate the assets, liabilities, rates of contribution and plans of insurance of such society and prepare a report containing such amendments to such society's constitution and laws reducing the benefits payable under its contracts of insurance or some of them or increasing the rates of contribution payable by its members as a whole or some class or classes thereof, or such other amendments as said readjustment Default of society in complying with request of Minister.



committee deem necessary in order to provide for the payment of all the contracts of insurance of such society as they mature, in accordance with said amendments.

Amend-  
ments in  
report of  
committee  
to be part of  
society's  
constitution.

(2) The said readjustment committee shall file such report in the office of the Superintendent and deliver to the society a certified copy thereof and immediately upon such report being filed with the Superintendent the amendments contained therein shall be and become part of the constitution and laws of such society and shall be valid and binding upon all its members and upon their beneficiaries or legal personal representatives and upon all persons deriving legal rights from any member or beneficiary notwithstanding anything contained in the provisions of its constitution and laws before such amendments or in its Act or instrument of incorporation or in any policy or certificate of insurance issued by such society.

Date to be  
fixed in  
report.

(3) The said readjustment committee shall in the said amendments fix a date not more than six months after the date of filing of the report when the reduction of benefits or increase in the rate of contribution provided for by such amendments shall be in full force and effect.

Expenses.

(4) Such society shall bear the expense of the investigation and report and furnish the readjustment committee with required information. R.S.O. 1927, c. 222, s. 223.

Where  
society  
unable to  
furnish  
declaration  
of actuary.

**247.**—(1) Where a society which is unable to furnish the declaration of an actuary prescribed in subsection 2 of section 243 has heretofore adopted or shall hereafter adopt new rates of contribution which in the opinion of the actuary appointed by the society, filed with the Superintendent, make reasonable provision for the payment in full at maturity of the contracts of insurance issued to its members who have entered or shall enter the society upon such new rates of contribution, such society shall, after the payment of the matured contracts of such members, create and from time to time maintain out of the rates of contributions of such members and interest accretions thereto, a reserve fund not less than the amount which, with the rates of contributions to be collected from such members, is, in the opinion of the actuary, required to pay in full such contracts of insurance as they mature, and such fund shall be a separate fund of the society and shall not be liable for payment of the debts and obligations of the society under its contracts of insurance with those members who have not contributed to the funds of the society under said new rates of contribution or under the provisions contained in subsection 2.

(2) The society may provide in its constitution and laws for the issue of new certificates to members admitted to the society prior to the establishment of such fund upon such terms and conditions as will in the opinion of the actuary appointed by the society certified in writing to the Superintendent enable the society to pay in full the contracts of insurance issued to such members as they mature and the provisions of subsection 1 shall apply to such new certificates. New certificates may be issued.

(3) The annual valuation of the actuary of the society maintaining a separate fund as hereinbefore prescribed shall show clearly and separately and in such detail as the Superintendent may require, the financial position of the society in respect of the certificates of insurance included, and those not included, within the scope of the separate fund. Annual valuation of actuary, what to show.

(4) When a society which has been maintaining a separate fund for new members in accordance with the provisions of this section files with the Superintendent a declaration of the actuary appointed by the society in accordance with the provisions of subsection 2 of section 243, the separate fund may, with the approval of the Superintendent, be merged with the other funds of the society of a kindred nature. Merger of funds.

(5) Nothing herein contained shall prevent a society which maintains a separate fund as hereinbefore described, from maintaining a common expense fund. R.S.O. 1927, c. 222, s. 224. Maintenance of common expense fund.

**248.** Where a society is authorized by its constitution and laws and undertakes in Ontario to insure the lives of children the rates of contribution for such child insurance shall be approved by an actuary and the society shall maintain out of the rates paid upon contracts of child insurance and interest accretions thereto, a separate fund for the payment at maturity of such contracts, and the actuary appointed by the society to value its contracts of insurance shall make a separate valuation of the outstanding child insurance contracts, and shall show the amount of the fund held for such contracts. R.S.O. 1927, c. 222, s. 225. Life insurance on children.

**249.** A society which files with the Superintendent the declaration prescribed by subsection 2 of section 243 or a society that is maintaining a separate fund for its contracts of insurance as prescribed by section 247 may provide in its constitution and laws for the issue of contracts of life insurance wherein the regular rates of contributions payable thereunder may be limited to a period of twenty or more years, provided such rates of contribution have been approved by an actuary Society may limit period to twenty years, under what circumstances.

Proviso.

and provided further that such certificates of insurance shall be subject to the provisions of subsection 1 of section 247 but such limitation of payments shall not affect the right of the society to make an assessment or assessments in respect of such certificates in accordance with the constitution and laws of the society either during or after the period of such limited payments. R.S.O. 1927, c. 222, s. 226.

Epidemic or unforeseen contingency.

**250.** In event of any epidemic or other unforeseen contingency impairing the funds of a society the governing executive authority of the society may impose a special assessment or special assessments upon the members of the society or upon such class or classes thereof and with such incidence as in the opinion of the governing executive authority is deemed necessary and equitable, and such special assessment or assessments shall be binding on the members of the society notwithstanding anything to the contrary in its Act or instrument of incorporation or its constitution and laws, or in any certificate of insurance heretofore or hereafter issued by the society. R.S.O. 1927, c. 222, s. 227.

General or expense fund.

**251.** The governing executive authority of a society may make such additional levies from time to time upon all members of the society as shall be necessary, in the opinion of the governing executive authority, to properly carry on the work of the society and prevent any deficit in its general or expense fund, and such additional levies shall be binding on the members of the society notwithstanding anything to the contrary in its Act or instrument of incorporation, or in its constitution or laws, or in any certificate of insurance heretofore or hereafter issued by the society. R.S.O. 1927, c. 222, s. 228.

Application of surplus.

**252.** A society whose valuation balance sheet prescribed by subsection 1 of section 243 shows a surplus of assets of more than five per centum over and above all its liabilities, may apply the surplus or a portion thereof, by way of transfer from the mortuary to the expense fund, by waiver of premium, by bonus additions or otherwise, in any manner which may be approved by the actuary appointed by the society; provided that a certificate of the actuary is filed with the Superintendent, at least thirty days before any application or transfer is made, certifying that the proposed application or transfer is authorized by the constitution and laws of the society, that it is fair and reasonable and in the best interests of the society, and that it will not prejudice the ability of the society to pay its contracts of insurance as they mature. 1934, c. 22, s. 10.



**253.** Every licensed fraternal society shall before putting into effect any new or additional benefits or any new scale of rates of contribution under certificates of insurance, file with the Superintendent a certificate of an actuary approving of such benefits or rates of contribution. R.S.O. 1927, c. 222, s. 230.

Certificate  
approving  
rates to be  
filed.

**254.** Notwithstanding anything in this Act a fraternal society licensed under this Act which files with the Superintendent a declaration of an actuary as provided by subsection 2 of section 243 may, if its constitution so provides and subject thereto, issue to its members old age insurance contracts providing for the payment of the money due on maturity thereof either at death or upon the insured attaining any age not less than sixty-five years. R.S.O. 1927, c. 222, s. 231.

Old age  
insurance in  
fraternal  
society.

**255.** A fraternal society licensed under this Act having more than five thousand members in the life insurance department, which has filed with the Superintendent for at least three successive years a declaration of an actuary as provided by subsection 2 of section 243 may, if its constitution so provides and subject thereto, issue to its members endowment insurance contracts providing for the payment of the insurance money to such members at the expiration of twenty or more years from the date of such contracts, or to the beneficiary or beneficiaries under any of such contracts in case of death of any of such members prior to the expiration of the endowment period. R.S.O. 1927, c. 222, s. 232; 1928, c. 35, s. 11.

Endowment  
insurance.

**256.** A fraternal society licensed under this Act which files with the Superintendent a declaration of an actuary as provided by subsection 2 of section 243 may, if its constitution so provides and subject thereto, grant such surrender values or other equities as may be approved by the actuary of the society and authorized by its constitution. R.S.O. 1927, c. 222, s. 233.

Surrender  
values and  
other  
equities.

**257.**—(1) If it appears to the Superintendent from the statements and reports filed with him or from an examination or valuation made in pursuance of this Act that the assets of a licensed fraternal society, the membership of which is limited by its constitution or laws to municipal or government employees applicable to the payment of its insurance contracts, are insufficient to provide for the payment of its contracts of insurance at maturity without deduction or abatement and without increase in its existing rates of contribution, he shall make a special report to the Minister

Report  
by Super-  
intendent  
where assets  
of certain  
societies  
insufficient.

and to the head or responsible officer of the municipality or government of which the members of the society are employees as to the financial condition of the society.

Responsi-  
bility of  
Superin-  
tendent.

(2) The Superintendent shall not make any order or assume any responsibility for the readjustment of rates and benefits of the society necessary to enable it to provide for the payment of the contracts of insurance of the society at maturity, but a synopsis of his special report shall be reported in his annual report. R.S.O. 1927, c. 222, s. 234.

Exception  
as to annual  
statement.

**258.** Where the constitution, by-laws or rules of a fraternal society provide for a fiscal year other than the calendar year, the Superintendent may, in his discretion, accept statements from such a society showing its affairs as at the end of the fiscal year instead of as at the end of the calendar year. 1934, c. 22, s. 11.

## PART XI.

### MUTUAL BENEFIT SOCIETIES.

What  
societies  
required to  
be licensed.

**259.** Mutual benefit societies required to be licensed under the provisions of this Act include the following,—

- (a) a society incorporated under the provisions of sections 36 to 41 of chapter 183 of the Revised Statutes of Ontario, 1914, or any Act for which the same was substituted, which does not undertake contracts of life insurance;
- (b) a mutual benefit society incorporated after the 1st day of January, 1925, under the provisions of *The Companies Act*. R.S.O. 1927, c. 222, s. 235.

Rev. Stat.  
c. 251.

What  
societies  
may not be  
licensed.

**260.**—(1) Subject to the provisions of subsection 2, no mutual benefit society shall be licensed, or have its license renewed,—

- (a) if it has upon its books less than seventy-five members in good standing;
- (b) if it insures or indemnifies against contingencies other than sickness, disability or funeral expenses;
- (c) if it contracts for sick benefits for an amount in excess of \$12 per week exclusive of hospital benefits not exceeding public ward rates or for a funeral benefit in excess of \$250;

(d) if it undertakes insurance contracts with persons other than its own members;

(e) if it is in effect the property of its officers or collectors, or of any other person for his own benefit, or is conducted as a mercantile or business enterprise, or for the purpose of mercantile profit, or if its funds are under the control of persons or officers appointed for life and not under that of the insured;

(f) if it has charge of, or manages or distributes charity or gratuities or donations only. R.S.O. 1927, c. 222, s. 236 (1); 1935, c. 30, s. 6.

(2) The Minister may, in his discretion, renew the license of any mutual benefit society notwithstanding that it has upon its books, at the time of application for such renewal, less than seventy-five members in good standing. R.S.O. 1927, c. 222, s. 236 (2). Exception.

**261.** The provisions of sections 233, 234 and 235 shall apply *mutatis mutandis* to societies licensed under this Part. R.S.O. 1927, c. 222, s. 237. Application of certain sections of Part X.

**262.** Where the constitution, by-laws or rules of a mutual benefit society which grants benefits solely through subordinate lodges or branches provide for a fiscal year other than the calendar year, the Superintendent may, in his discretion, accept statements from such a society showing its affairs as at the end of its fiscal year instead of as at the end of the calendar year. 1932, c. 24, s. 6. Exception as to annual statement.

## PART XII.

### PENSION FUND ASSOCIATIONS.

**263.**—(1) The provisions of this Part shall apply to all applications for license of pension fund associations and to such pension fund associations when licensed under the provisions of this Act. Application of Part XII.

(2) Subject to the express provisions of this Part, the provisions of this Act applicable to insurers licensed to undertake contracts of life insurance in Ontario, except sections 39 to 70 inclusive, section 77 and Part V, shall apply to all pension fund associations. R.S.O. 1927, c. 222, s. 238. Application of certain sections.

**264.** In addition to the annual statements required to be filed by every licensed insurer on or before the last day of Valuation to be filed.



February in each year, each pension fund association shall file with the Superintendent in such form and at such times as he may require, a valuation of its certificates or contracts of insurance, which valuation shall have regard to the prospective liabilities of the pension fund association under its certificates or contracts of insurance, and to the rates of contribution to be thereafter received from its members on such certificates according to the rates of contribution in force at the date of valuation, and shall be made and certified by an actuary appointed by the pension fund association and approved by the Superintendent, and shall include a valuation balance sheet in such form and detail and according to such standards of valuation, having regard to the table of mortality and the rate of interest to be employed, as the Superintendent may from time to time prescribe. R.S.O. 1927, c. 222, s. 239.

### PART XIII.

#### RECIPROCAL OR INTER-INSURANCE EXCHANGES.

Interpreta-  
tion.

**265.** In this Part, unless the context otherwise requires,—

"Attorney."

(a) "Attorney" shall mean a person authorized to act for subscribers as provided in section 268;

"Sub-  
scribers."

(b) "Subscribers" shall mean persons exchanging with each other reciprocal contracts of indemnity or inter-insurance as provided in sections 266. R.S.O. 1927, c. 222, s. 240.

Authority  
for exchange  
of reciprocal  
contracts of  
insurance.

**266.** It shall be lawful for any person to exchange with other persons in Ontario and elsewhere reciprocal contracts of indemnity or inter-insurance for any class of insurance for which an insurance company may be licensed under the provisions of this Act except life insurance, accident insurance, sickness insurance and guarantee insurance. R.S.O. 1927, c. 222, s. 241.

Subscriber  
not to be  
deemed an  
insurer.

**267.** No person shall be deemed to be an insurer within the meaning of this Act by reason of exchanging with other persons reciprocal contracts of indemnity or inter-insurance under the provisions of this Act. R.S.O. 1927, c. 222, s. 242.

Execution  
of contract.

**268.**—(1) Reciprocal contracts of indemnity or inter-insurance may be executed on behalf of subscribers by any other person acting as attorney under a power of attorney, a copy of which has been duly filed as hereinafter provided.

(2) Notwithstanding any condition or stipulation of any such power of attorney or of any such contract of indemnity or inter-insurance, any action or proceeding in respect of any such contract may be maintained in any court of competent jurisdiction in Ontario. R.S.O. 1927, c. 222, s. 243.

Who may maintain action in contract.

**269.** The persons constituting the exchange shall, through their attorney, file with the Superintendent a declaration verified by oath, setting forth,—

Declaration by members of exchanges.

- (a) the name of the attorney and the name or designation under which such contracts are issued, which name or designation shall not be so similar to any other name or designation previously adopted by any exchange or by any licensed insurer as in the opinion of the Superintendent to be likely to result in confusion or deception;
- (b) the classes of insurance to be effected or exchanged under such contracts;
- (c) a copy of the form of the contract, agreement or policy under or by which such reciprocal contracts of indemnity or inter-insurance are to be effected or exchanged;
- (d) a copy of the form of power of attorney under which such contracts are to be effected or exchanged;
- (e) the location of the office from which such contracts are to be issued;
- (f) a financial statement in the form prescribed by the Superintendent;
- (g) evidence satisfactory to the Superintendent that it is the practice of the exchange to require its subscribers to maintain in the hands of the attorney, as a condition of membership in the exchange, a premium deposit reasonably sufficient for the risk assumed by the exchange;
- (h) evidence satisfactory to the Superintendent that the management of the affairs of the exchange is subject to the supervision of an advisory board or committee of the subscribers in accordance with the terms of the power of attorney. R.S.O. 1927, c. 222, s. 244.

**270.**—(1) Upon an exchange complying with the provisions of this Part the Superintendent may issue a license in accordance with the form in Schedule C hereto.

Form of license.

Deposit.

(2) Notwithstanding anything in this Act contained the Superintendent may, with the approval of the Minister, require an exchange, as a condition of the issue or renewal of its license, to deposit approved securities with the Minister in such amount and upon such terms and conditions as the Superintendent may deem proper. R.S.O. 1927, c. 222, s. 245.

Evidence  
required  
before issue  
of license for:

**271.** A license shall not be issued to an exchange to effect or exchange contracts of indemnity or inter-insurance,—

fire  
insurance.

(a) against loss by fire, until evidence satisfactory to the Superintendent has been filed with him that applications have been made for indemnity upon at least seventy-five separate risks in Ontario or elsewhere aggregating not less than \$1,500,000 as represented by executed contracts or *bona fide* applications to become concurrently effective;

automobile  
insurance.

(b) in respect of automobiles, until evidence satisfactory to the Superintendent has been filed with him that applications have been made for indemnity upon at least five hundred automobiles as represented by executed contracts or *bona fide* applications to become concurrently effective, and that arrangements satisfactory to the Superintendent are in effect for the reinsurance of all liabilities in excess of such limits as the Superintendent may prescribe. R.S.O. 1927, c. 222, s. 246.

Service of  
process.

**272.** Where the office from which such contracts are to be issued is not in Ontario, service upon the Superintendent of notice or process in any action or proceeding in Ontario in respect of contract of indemnity or inter-insurance effected by the exchange, shall be deemed service upon the subscribers who are members of the exchange at the time of such service. R.S.O. 1927, c. 222, s. 247.

Statement of  
maximum  
indemnity.

**273.** There shall be filed with the Superintendent by the attorney, as often as the Superintendent may require, a statement of the attorney under oath showing, in the case of fire insurance, the maximum amount of indemnity upon any single risk and a statement of the attorney verified by oath to the effect that he has examined the commercial rating of the subscribers of the exchange as shown by the reference book of a commercial agency, having at least five hundred subscribers and that from such examination or other information in his possession it appears that no subscriber has assumed on any single fire insurance risk, an amount greater than ten



per centum of the net worth of such subscriber. R.S.O. 1927, c. 222, s. 248.

**274.**—(1) There shall at all times be maintained with such attorney, as a reserve fund, a sum in cash or approved securities equal to fifty per centum of the annual deposits or advance premiums collected or credited to the accounts of subscribers on contracts in force having one year or less to run, and *pro rata* on those for longer periods. Amount of reserve.

(2) Except as hereinafter provided, there shall also be maintained as a guarantee fund or surplus, an additional sum, in excess of all liabilities, in cash or approved securities amounting to not less than \$50,000. Guarantee fund.

(3) In the case of a fire insurance exchange whose principal office is in Ontario, the guarantee fund or surplus referred to in subsection 2 shall not be less than \$25,000. Guarantee fund of fire insurance domestic exchange.

(4) In the case of an automobile insurance exchange whose principal office is in Ontario, the guarantee fund or surplus referred to in subsection 2 shall, during the first year of operation of the exchange, be maintained at an amount not less than \$10,000, and thereafter not less than \$25,000. Guarantee fund of domestic automobile insurance exchange.

(5) If at any time the amounts on hand are less than the foregoing requirements the subscribers or the attorney shall forthwith make up the deficiency. Deficiency.

(6) Where funds other than those which accrued from premiums or deposits of subscribers are supplied to make up a deficiency as herein provided for, such funds shall be deposited and held for the benefit of subscribers under such terms and conditions as the Superintendent may require so long as a deficiency exists and may thereafter be returned to the depositor. Use of funds supplied to make up deficiency.

(7) In this section "approved securities" means securities the investment in which is authorized by the provisions of section 275. R.S.O. 1927, c. 222, s. 249. "Approved securities."

**275.**—(1) If the principal office of the exchange is in Ontario, the surplus insurance funds and the reserve fund of the exchange shall be invested in the class of securities authorized by *The Companies Act* for the investment of the reserve funds of a joint stock insurance company incorporated thereunder. Investment of surplus funds and reserve. Rev. Stat. c. 251.

(2) If the principal office of the exchange is outside Ontario it shall be a condition precedent to the issue of a license under this Act that evidence satisfactory to the Superintendent Evidence as to investments.

shall be filed with him showing that the class of security in which funds of the exchange are required by law to be invested and are in fact invested, is within the limits of investment prescribed for the investment of the reserve funds of an insurance corporation by the jurisdiction in which the office of the exchange is situate. R.S.O. 1927, c. 222, s. 250.

Contracts  
for sub-  
scribers only.

**276.**—(1) No exchange shall undertake any liability on a contract of indemnity, inter-insurance or insurance except on behalf of a subscriber.

Reinsurance  
in another  
exchange.

(2) No attorney or exchange shall effect reinsurance of any risks undertaken by the exchange in any other reciprocal or inter-insurance exchange. R.S.O. 1927, c. 222, s. 251.

Attorney  
not to act  
until license  
granted.

**277.**—(1) No person shall act as attorney, or for or on behalf of any attorney, in the exchange of reciprocal contracts of indemnity or inter-insurance, or in acts or transactions in connection therewith, unless and until a license has been issued and unless such license is in force.

Penalty.

(2) Any person who, in contravention of subsection 1 undertakes or effects or agrees or offers to undertake or effect any exchange of reciprocal contracts of indemnity or inter-insurance or any act or transaction in connection therewith shall incur a penalty of not less than \$50 or more than \$500 recoverable under *The Summary Convictions Act*. R.S.O. 1927, c. 222, s. 252.

Rev. Stat.  
c. 136.

Suspension  
or revocation  
of license.

**278.**—(1) Where a licensed exchange or attorney fails or refuses to comply with or contravenes any provision of this Act, the license of the exchange may be suspended or revoked by the Minister on the report of the Superintendent after due notice and opportunity for a hearing before the Superintendent has been given to the exchange or its attorney, but such suspension or revocation shall not affect the validity of any reciprocal contracts of indemnity or inter-insurance effected prior thereto or the rights and obligations of subscribers under such contracts.

Notice.

(2) Notice of such suspension or revocation shall be given by the Superintendent in at least two successive issues of the *Ontario Gazette* as soon as reasonably may be after such suspension or revocation. R.S.O. 1927, c. 222, s. 253.

Annual tax.

**279.** The attorney shall, on or before the 1st day of March in each year, pay to the Treasurer of Ontario for the use of the Province, an annual tax equal to two per centum of the gross premiums or deposits collected from subscribers in respect of risks located in Ontario during the preceding calendar year

after deducting returns for cancellations, considerations for reinsurances with licensed insurers and all amounts returned to subscribers or credited to their accounts as savings during such year. R.S.O. 1927, c. 222, s. 254; 1932, c. 24, s. 7.

**280.** Notwithstanding anything in this Act any person may insure against fire any property situated in Ontario in any exchange not licensed under this Act, and any property so insured or to be insured may be inspected and any loss incurred in respect thereof adjusted, provided such insurance is effected outside of Ontario and without any solicitation in Ontario directly or indirectly on the part of the insurer. R.S.O. 1927, c. 222, s. 255.

Fire insurance in unlicensed exchanges may be effected outside of Ontario.

#### PART XIV.

##### AGENTS, BROKERS AND ADJUSTERS.

##### *Licenses of Insurance Agents.*

**281.**—(1) The Superintendent may issue to any person who has complied with the requirements of this Act a license authorizing such person to carry on business as an insurance agent subject to the provisions of this Act and to the terms of the license.

Licensing agent.

(2) Licenses so issued shall be of two classes,—

Classification.

- (a) licenses for life insurance, or life and accident insurance, or life and accident and sickness insurance;
- (b) licenses for any classes of insurance other than life insurance.

(3) Upon written notice to the Superintendent that a licensed insurer has appointed a person to act as his agent in Ontario and upon due application of such person and payment by him of the prescribed fee, the Superintendent shall, if he is satisfied that the applicant is a suitable person to receive a license and intends to hold himself out publicly and carry on business in good faith as an insurance agent, issue to the applicant a license which shall state in substance that the holder is, during the term of the license, authorized to carry on within Ontario the business of an insurance agent.

Issue of license.

(4) Such notice of appointment by an insurer shall be upon a form furnished by the Superintendent and shall state that the appointee has been authorized in writing by the insurer to act as agent in the soliciting of and negotiating for insurance and shall be accompanied by a sworn statement of the

Notice of appointment of agent.



appointee on a form furnished by the Superintendent which shall give the name, age, residence and present occupation of the applicant and his occupation for the five years next preceding the date of the notice and particulars of any other employment in which he may be engaged and such other information as the Superintendent may require.

Limitations  
of license.

(5) Where the applicant is the appointee of an insurer carrying on in Ontario the business of life insurance, or life and accident insurance, or life and accident and sickness insurance, the license shall expressly limit the authorization of the agent to the class of insurance for which the insurer is licensed, and when the applicant is the appointee of an insurer carrying on in Ontario any class or classes of insurance business other than life insurance, the license shall expressly exclude the business of life insurance, but nothing herein shall prevent the issue to the same applicant of two licenses including all classes of insurance if due application has been made for two licenses.

Notice of  
termination  
of agency.

(6) Where the agency, upon notice of which a license is issued, is terminated, notice in writing shall forthwith be given by the insurer to the Superintendent of such termination, with the reason therefor, and thereupon the license shall be *ipso facto* suspended, but such license may be revived subject to the approval of the Superintendent upon filing of notice of a new agency appointment and upon payment of a fee of \$1.

Failure to  
give notice.

(7) An insurer who fails to notify the Superintendent within thirty days of the termination of an agency appointment as required by subsection 6 shall be guilty of an offence. R.S.O. 1927, c. 222, s. 256 (1-7).

Revocation.

(8) A license issued under this section may be revoked by the Superintendent if, after due investigation and a hearing, he determines that the holder of such license (a) has violated any provision of this Act by any act or thing done in respect to insurance for which such license is required, or (b) has made a material mis-statement in the application for such license, or (c) has been guilty of a fraudulent practice, or (d) has demonstrated his incompetency or untrustworthiness to transact the insurance agency business for which such license has been granted, by reason of anything done or omitted in or about such business under the authority of such license, or (e) has employed upon salary or otherwise any person whose application for license as an insurance agent has been refused or whose license has been revoked or suspended under this Part without having first obtained the written approval of the Superintendent. R.S.O. 1927, c. 222, s. 256 (8); 1931, c. 49, s. 12 (1).

(9) In determining the granting or refusal of an application for a license or renewal of license, or the cancellation of any existing license, the Superintendent may, and shall when so requested in writing by the applicant or licensee, nominate an advisory board before which the hearing provided for in subsection 8 shall be had, on which board there shall be a representative of insurers and a representative of agents, and a representative of the Superintendent, and the decision of the Superintendent rendered after the hearing and on the advice of such board shall be final and binding upon all parties concerned and shall not be subject to appeal.

Advisory  
board to  
report on  
complaint.

(10) The representative of the Superintendent upon the advisory board shall act as chairman and for the purposes of his duties in connection with the investigation and hearing contemplated by subsection 9, shall have the same powers as are vested in the Superintendent by section 4. R.S.O. 1927, c. 222, s. 256 (9, 10).

Chairman  
of board.

(11) A license issued hereunder shall expire on the 30th day of September next after its issue unless automatically suspended by notice pursuant to subsection 6 or unless revoked or suspended by the Superintendent; but such license may, in the discretion of the Superintendent, be renewed for a succeeding year upon due application upon a form prescribed by the Superintendent giving such information as he may require, accompanied by a certificate of agency appointment of a licensed insurer and payment of the prescribed fee without requiring anew the detailed information hereinbefore specified. R.S.O. 1927, c. 222, s. 256 (11); 1928, c. 35, s. 12.

Term of  
license.

Renewal.

(12) The holder of a license under this section as agent for insurance other than life insurance may, during the term and validity of his license, act as agent for any licensed insurer within the limits prescribed by his license, and may act as an insurance broker in dealing with licensed insurers without other or additional licenses but may not act as agent or broker directly, or indirectly through a broker licensed for business with unlicensed insurers under section 284 or otherwise, in dealing with unlicensed insurers. R.S.O. 1927, c. 222, s. 256 (12); 1930, c. 41, s. 10 (1).

Authority of  
of agents.

(13) No life insurance agent shall be licensed to act as agent for more than one insurer transacting life insurance, and the name of such insurer shall be specified in the license, and no such agent shall represent himself to the public by advertisement or otherwise as the agent of more than one such insurer; provided that, where such an agent is unable to negotiate insurance on behalf of an applicant for insurance

Authority of  
life insurance  
agents.

with the insurer for which he is the authorized agent, such agent shall have the right to procure such insurance from another insurer if such other insurer obtains in each case the consent in writing of the insurer for which such agent is the authorized agent, and files a copy of such consent with the Superintendent. 1931, c. 49, s. 12 (2).

Collectors.

(14) A collector of insurance premiums who does not solicit application for or the renewal or continuance of insurance contracts or act or aid in negotiating such contracts or the renewal thereof, may carry on such business without a license therefor, provided that the collection fee does not exceed five per centum of any amount collected.

Members of  
fraternal  
societies, etc.

(15) A member of a duly licensed fraternal society or pension fund association other than a salaried employee who receives commission, or a member of a mutual fire, weather or live stock insurance corporation, carrying on business solely on the premium note plan, may, without a license, solicit persons to become members of such society, association or corporation. R.S.O. 1927, c. 222, s. 256 (13, 14).

Salaried  
officials, etc.

(16) A salaried employee who does not receive commissions or an officer of a licensed insurer, or an attorney, or salaried employee of a reciprocal or inter-insurance exchange at which no commission is paid except to such attorney, or an employee of a licensed agent or broker who does not receive commissions and who acts only in the name and on behalf of such licensed agent or broker may, without a license, act for such insurer, exchange, agent or broker in the negotiation of any contracts of insurance or in the negotiation of the continuance or renewal of any contracts which the insurer, exchange, agent or broker may lawfully undertake; provided that in the case of insurers authorized to undertake life insurance, only the officers and salaried employees of the head office who do not receive commissions may so act without a license, and further provided that in the case of insurers authorized to undertake classes of insurance other than life insurance, officers or employees whose applications for licenses as insurance agents have been refused or whose licenses have been revoked or suspended, may not so act without the written approval of the Superintendent. R.S.O. 1927, c. 222, s. 256 (15); 1932, c. 24, s. 8 (1).

Licensing  
of trans-  
portation  
ticket  
agents.

(17) Notwithstanding anything contained in this section, licenses may be issued to transportation ticket agents, authorizing them to act as agents for accident and such other classes of insurance as may be approved, under and subject to such regulations as the Lieutenant-Governor in Council may prescribe. 1930, c. 41, s. 10 (2); 1932, c. 24, s. 8 (2).



(18) Every person who assumes to act as an agent without the license required by this section, or while his license as such is suspended, shall be guilty of an offence. R.S.O. 1927, c. 222, s. 256 (16). Penalty.

*Licenses of Insurance Brokers.*

**282.**—(1) The Superintendent may, upon the payment of the prescribed fee, issue to any suitable person resident in Canada a license to act in Ontario as an insurance broker to negotiate, continue or renew contracts of insurance other than life insurance or to place risks or effect insurance with any duly licensed insurer or its agent. R.S.O. 1927, c. 222, s. 257 (1); 1928, c. 35, s. 13. Licenses of insurance brokers.

(2) The applicant for such license shall file with the Superintendent a written application under oath upon a form provided by the Superintendent in which the applicant shall state his name, age, residence and occupation at the time of making the application, his occupation, for the five years next preceding the date of the application and such other information as the Superintendent may require, and the applicant shall declare that he intends to hold himself out publicly and carry on business in good faith as an insurance broker and he shall furnish a statement as to his trustworthiness and competency signed by at least three reputable persons resident in Ontario. Application to be filed with Superintendent.

(3) If the Superintendent is satisfied with the statement and information required by subsection 2 he shall issue the license applied for, and the license shall expire on the 30th day of September in each year unless sooner revoked or suspended. R.S.O. 1927, c. 222, s. 257 (2, 3). Superintendent may issue license.

(4) The license may, in the discretion of the Superintendent be renewed upon payment of the prescribed fee for each succeeding year without requiring anew the detailed information hereinbefore specified. R.S.O. 1927, c. 222, s. 257 (4); 1937, c. 72, s. 29 (7). Renewal of license.

(5) The Superintendent may, for cause shown and after a hearing, revoke the license, or may suspend it for a period not exceeding the unexpired term thereof, and may for cause shown and after a hearing revoke the license while so suspended, and shall notify the licensee in writing of such revocation or suspension and may publish a notice of such revocation or suspension in such manner as he may deem necessary for the protection of the public. Revocation or suspension of license.

(6) Any person other than a licensed agent who assumes to act as an insurance broker without a license or during a suspension of his license shall be guilty of an offence. Penalty.

License not  
to import  
agency.

(7) Subject to the provisions of section 285 a broker shall not be presumed to be the agent of the insurer or the agent of the insured by reason of the issue to him of a license under this section. R.S.O. 1927, c. 222, s. 257 (5-7).

License may  
be granted  
limiting  
authority of  
licensee.

**283.** In addition to issuing insurance brokers' licenses giving full authority to the licensee as set forth in the preceding sections, the Superintendent may issue insurance brokers' licenses limiting the authority of the licensee to the extent agreed upon with the applicant and set forth in the license, but in other respects the granting of such licenses and the brokers so licensed shall be subject to this Act. R.S.O. 1927, c. 222, s. 258.

*Brokers' Licenses for Business with Unlicensed Insurers.*

License to  
special  
insurance  
broker.

**284.**—(1) The Superintendent may, upon the payment of the prescribed fee, issue to any suitable person resident in Ontario, a license to act as a special insurance broker to negotiate, continue or renew contracts of fire insurance on property in Ontario in insurers not authorized to transact such business in Ontario. R.S.O. 1927, c. 222, s. 259 (1); 1928, c. 35, s. 14.

Application.

(2) The applicant for such license shall file with the Superintendent a written application under oath as prescribed by section 282.

Expiration  
of license.

(3) If the Superintendent is satisfied with the statements and information required, he shall issue the license applied for subject to suspension or revocation in the discretion of the Superintendent, which license shall expire on the 30th day of June in each year unless sooner suspended or revoked. R.S.O. 1927, c. 222, s. 259 (2, 3).

Renewal of  
license.

(4) The license may, in the discretion of the Superintendent, be renewed for each succeeding year upon payment of the prescribed fee without requiring anew the detailed information specified by section 282. R.S.O. 1927, c. 222, s. 259 (4); 1937, c. 72, s. 29 (8).

Security.

(5) Every person shall, before receiving such license, execute and deliver to the Superintendent security to the satisfaction of the Superintendent in the sum of not less than \$5,000 that the licensee will faithfully comply with all the requirements of this Act.

When  
licensee  
may effect  
insurance  
with un-  
licensed  
insurers.

(6) Where sufficient insurance on property in Ontario cannot be obtained at reasonable rates or on the form of contract required by the insured from insurers licensed to do

business in Ontario, the person named in such license may effect insurance with unlicensed insurers, but shall in the case of every insurance effected under this section obtain from the insured a signed and dated statement describing the property insured, its location and the amount of insurance required and stating that the insurance cannot be obtained in licensed companies and that the application for such insurance at the stated rate of premium was previously made to and refused by named companies licensed in Ontario, and the person named in such license shall, within ten days after the placing of such insurance with unlicensed insurers, submit to the Superintendent a statement setting forth the name of the insured, the property insured and its location, the full names of the unlicensed insurers, and the amount of insurance placed with each and the rate and amount of premium paid to each.

(7) Every such licensee shall keep a separate account of insurance effected by him under his license in books in the form prescribed by the Superintendent, which shall be open to inspection by the Superintendent or any officer of the Department. Records to be kept, — inspection.

(8) Within ten days after the end of each month every such licensee shall make to the Superintendent a return under oath in the form and manner by him prescribed, containing particulars of all insurances effected under this section by the licensee during such month. Monthly return.

(9) In respect of all premiums on insurance effected under a license, the licensee shall pay to the Department such taxes as would be payable if such premiums had been received by a licensed insurer, and payment thereof shall accompany the monthly return provided for in subsection 8. Tax on premiums.

(10) On it being shown to the satisfaction of the Minister that all insurances effected under this section are no longer in force or have been reinsured, the licensee shall be entitled to a release or cancellation of his security. R.S.O. 1927, c. 222, s. 259 (5-10). Release of security given by licensee.

(11) A licensee under this section shall accept applications for insurance with unlicensed insurers only from the insured or another licensee under this section and shall not receive any such application from, or pay or allow compensation or anything of value in respect of such applications to, an agent or broker not licensed under this section, and any contract of insurance with an unlicensed insurer made by or through any agent or broker not licensed under this section shall be deemed to be unlawfully made within the meaning of section 287. 1930, c. 41, s. 11. Prohibition against accepting business from agents and brokers.



Forfeiture  
of license.

(12) Every person licensed under this section who contravenes any of the foregoing provisions of this section shall forfeit his license and shall be guilty of an offence. R.S.O. 1927, c. 222, s. 259 (11).

*Provisions Relating to Agents and Brokers Generally.*

Agent or  
broker  
receiving  
premiums.

**285.**—(1) An agent or broker shall, for the purpose of receiving any premium for a contract of insurance be deemed to be the agent of the insurer notwithstanding any conditions or stipulations to the contrary.

Application  
of section  
limited.

(2) This section shall not apply to life insurance. R.S.O. 1927, c. 222, s. 260.

Fraudulent  
representations.

**286.** An agent or broker who knowingly procures by fraudulent representations, payment or the obligation for payment of any premium on an insurance policy, shall be guilty of an offence. R.S.O. 1927, c. 222, s. 261.

Personal  
liability of  
agent for  
unlawful  
contracts.

**287.** An agent or broker shall be personally liable to the insured on all contracts of insurance unlawfully made by or through him directly or indirectly with any insurer not licensed to undertake insurance in Ontario, in the same manner as if such agent or broker were the insurer. R.S.O. 1927, c. 222, s. 262.

*Licenses of Insurance Adjusters.*

Licenses of  
insurance  
adjusters.

**288.**—(1) The Superintendent may, upon the payment of the prescribed fee, issue to any suitable person a license to act as an adjuster; provided that a person licensed as an insurance agent or broker under this Part shall not receive a license to act as an insurance adjuster. R.S.O. 1927, c. 222, s. 263 (1); 1928, c. 35, s. 15; 1934, c. 22, s. 12 (1).

Application  
to be filed  
with Super-  
intendent.

(2) The applicant for such license shall file with the Superintendent a written application under oath upon a form provided by the Superintendent in which the applicant shall state his name, age, residence and occupation for the five years next preceding the date of the application and such other information as the Superintendent may require, and the applicant shall furnish a statement as to his trustworthiness and competency signed by at least three reputable persons resident in Ontario.

License to  
be in force  
one year.

(3) If the Superintendent is satisfied with the statements and information required, he shall issue the license which shall expire on the 30th day of June in each year unless sooner revoked or suspended. R.S.O. 1927, c. 222, s. 263 (2, 3).

(4) A license may, in the discretion of the Superintendent and upon payment of the prescribed fee, be renewed for each succeeding year without requiring anew the detailed information hereinbefore specified. R.S.O. 1927, c. 222, s. 263 (4); 1937, c. 72, s. 29 (9). Renewal of license.

(5) The Superintendent may, for cause shown and after a hearing, revoke the license, or may suspend it for a period not exceeding the unexpired term thereof, and may, for cause shown and after a hearing, revoke the license while so suspended, and shall notify the licensee in writing of such revocation or suspension. R.S.O. 1927, c. 222, s. 263 (5). Revocation or suspension of license.

(6) The provisions of subsections 8, 9 and 10 of section 281 with reference to grounds of revocation of license, to the appointment of an advisory board, and to the power of the chairman thereof in the matter of insurance agents' licenses, shall apply *mutatis mutandis* to applicants and licensees under this section; provided that a representative of adjusters shall replace a representative of agents on the board. 1934, c. 22, s. 12 (2). Application of s. 281, subss. 8, 9 and 10.

(7) Any person who acts as an adjuster without such a license or during a suspension of his license, shall be guilty of an offence. R.S.O. 1927, c. 222, s. 263 (6). Penalty.

**289.**—(1) Subject to the provisions of subsection 2, no person shall, on behalf of himself or any other person, directly or indirectly,— Prohibition against public adjusters of motor accident claims.

(a) solicit the right to negotiate, or negotiate or attempt to negotiate, for compensation, the settlement of a claim for loss or damage arising out of a motor vehicle accident resulting from bodily injury to or death of any person or damage to property on behalf of a claimant; or

(b) hold himself out as an adjuster, investigator, consultant or otherwise as an adviser, on behalf of any person having a claim against an insured for which indemnity is provided by a motor vehicle liability policy.

(2) This section shall not apply to a barrister or solicitor acting in the usual course of his profession. 1935, c. 30, s. 7. Exception.

#### *Partnership Licenses of Agents, Brokers and Adjusters.*

**290.**—(1) Licenses as agents, brokers or adjusters may be issued to partnerships on the conditions hereinbefore specified for the issue of such licenses to individuals except as otherwise provided in this section. Licenses to partnerships.

Statement  
to be filed  
by each  
partner.

(2) Each member of the partnership shall file the statement or application and pay the fee required by this Act, including a written request that the license be issued in the name of the partnership, and the license may be revoked or suspended as to one or more members of the partnership.

Notice of  
termination  
of partner-  
ship.

(3) If the partnership is terminated prior to the expiration of the license, the partners shall forthwith give notice to the Superintendent, who shall thereupon revoke the license.

Failure to  
give notice.

(4) Any member of a partnership licensed under this section who contravenes any of the provisions hereof, shall be guilty of an offence. R.S.O. 1927, c. 222, s. 264.

*Corporation Licenses of Agents, Brokers and Adjusters.*

Licenses to  
Corpora-  
tions.

**291.**—(1) Licenses as agents, brokers or adjusters may be issued to any corporation which is incorporated expressly for the purpose of acting as an insurance agent, broker or adjuster or for that and other purposes. R.S.O. 1927, c. 222, s. 265 (1).

When  
licenses  
not to be  
issued.

(2) Licenses as agents or brokers shall not be issued to a corporation whose head office is outside of Canada or if it appears to the Superintendent that the application is made for the purpose of acting as agent or broker wholly or chiefly in the insurance of property owned by the corporation or by its shareholders or members, or in the placing of insurance for one person, firm, corporation, estate or family. R.S.O. 1927, c. 222, s. 265 (2); 1932, c. 24, s. 9.

Provisions  
as to  
licenses.

(3) Except as otherwise provided in this section, such licenses, and the corporation and officers of the corporation named in the license, shall be subject to the provisions of this Act with respect to agents, brokers and adjusters.

Officers who  
may act  
under  
license.

(4) The license shall specify the officers who may act thereunder in the name and on behalf of the corporation and every such officer shall file a statement or application and pay the fee required by this Act for individual agents, brokers or adjusters provided that employees who do not receive commissions and who act only in the name and on behalf of the corporation may so act by authority of the corporation license although not named therein.

Revocation  
of license.

(5) A license may be revoked or suspended as to the corporation or as to any officers named therein.

Superin-  
tendent  
may require  
information.

(6) If the principal business of a corporation licensed under this section is not the business of an insurance agent or broker or adjuster, the Superintendent may require from such a corporation such information as he deems necessary in respect to



the corporation, its officers and affairs and may make such examination of its books and affairs as he deems necessary for the purposes of this Act.

(7) Any corporation licensed under this section shall forthwith notify the Superintendent in writing of the dissolution or revocation of the charter of the corporation and upon receipt of such notice the Superintendent shall forthwith revoke the license. Notice of dissolution of corporation.

(8) Every officer specified in the license who contravenes any of the provisions of this section shall be guilty of an offence and shall be personally liable therefor, although such contravention is committed in the name and on behalf of the corporation, and the corporation shall be liable for any such contravention the responsibility for which cannot be placed upon any such officer. R.S.O. 1927, c. 222, s. 265 (3-8). Personal liability of officers.

*Provisions Relating to Agents, Brokers and Adjusters Generally.*

**292.** Any person who not being duly licensed as an agent, broker or adjuster, represents or holds himself out to the public as being such an agent, broker or adjuster, or as being engaged in the insurance business by means of advertisements, cards, circulars, letterheads, signs, or other methods, or being duly licensed as such agent, broker or adjuster, advertises as aforesaid or carries on such business in any other name than that stated in the license, shall be guilty of an offence. R.S.O. 1927, c. 222, s. 266. Acting as agent, broker, or adjuster without authority.

**293.** An agent or broker who acts in negotiating, or renewing or continuing a contract of insurance, other than life insurance, with a licensed insurer, and who receives any money or substitute for money as a premium for such a contract from the insured, shall be deemed to hold such premium in trust for the insurer, and, if he fails to pay the same over to the insurer within fifteen days after written demand made upon him therefor, less his commission and any deductions to which, by the written consent of the company, he may be entitled, such failure shall be *prima facie* evidence that he has used or applied the said premiums for a purpose other than paying the same over to the insurer, and that he has been guilty of an offence. R.S.O. 1927, c. 222, s. 267; 1932, c. 24, s. 10. Agent to be deemed to hold premium in trust for insurer.

**294.—(1)** No insurer, and no officer, employee, or agent thereof and no broker shall directly or indirectly pay or allow, or agree to pay or allow, compensation or anything of value to any person for placing or negotiating insurance on lives, No compensation to be paid by insurer to person not licensed.

property or interests in Ontario, or negotiating the continuance or renewal thereof, or for attempting so to do, who, at the date thereof, is not a duly licensed insurance agent or broker or a person acting under the authority of subsections 15 and 16 of section 281 and whoever knowingly violates the provisions of this section shall be guilty of an offence. R.S.O. 1927, c. 222, s. 268.

Agreement  
as to  
premium  
other than  
as in policy  
prohibited.

(2) No insurer, and no officer, employee or agent thereof, and no broker, shall, directly or indirectly, make or attempt to make any agreement as to the premium to be paid for a policy other than as set forth in the policy, or pay, allow or give, or offer or agree to pay, allow or give, any rebate of the whole or part of the premium stipulated by the policy, or any other consideration or thing of value intended to be in the nature of a rebate of premium, to any person insured or applying for insurance in respect of life, person or property in the Province, and every insurer or other person who violates the provisions of this section, shall be guilty of an offence.

Exceptions.

(3) Nothing in this section shall affect any payment by way of dividend, bonus, profit or savings which is provided for by the policy, or be construed so as to prevent an insurer compensating a *bona fide* salaried employee of its head or branch office in respect of insurance issued by the employing insurer upon the life of such employee or so as to require that such employee shall be licensed as an agent for life insurance under this Act to effect such insurance. 1934, c. 22, s. 13.

Twisting life  
insurance  
policies  
prohibited.

**295.** Any person licensed as an agent for life insurance under this Act who induces, directly or indirectly, an insured to lapse, forfeit or surrender for cash, or for paid up or extended insurance, or for other valuable consideration, his contract of life insurance with one insurer in order to effect a contract of life insurance with another insurer, or makes any false or misleading statement or representation in the solicitation or negotiation of insurance, or coerces or proposes, directly or indirectly, to coerce a prospective buyer of life insurance through the influence of a business or a professional relationship or otherwise, to give a preference in respect to the placing of life insurance which would not be otherwise given in the effecting of a life insurance contract, shall be guilty of an offence. 1934, c. 22, s. 14.

Returns to  
Superin-  
tendent.

**296.** Every licensed insurer shall make a return under oath to the Superintendent in such form and at such times as he may require, showing all persons, partnerships and corporations duly authorized as its agents in Ontario, and of persons, partnerships or corporations to whom it has, within such period as the form of return may require, paid or allowed

or agreed to pay or allow, directly or indirectly, compensation for placing or negotiating insurance on lives, property or interests in Ontario, or negotiating the continuance or renewal thereof, or for attempting to do so. R.S.O. 1927, c. 222, s. 269.

**297.** If the Superintendent refuses, suspends or revokes a Appeal. license applied for by or issued to a broker or adjuster he shall state in writing his reasons therefor and any person who deems himself aggrieved by the decision of the Superintendent may appeal therefrom to the Minister and in case of an appeal the decision of the Superintendent shall not take effect until after the hearing and disposition thereof by the Minister. R.S.O. 1927, c. 222, s. 270.

**298.** A license may be issued to an agent or adjuster Limited or conditional license. subject to such limitations and conditions as the Superintendent may prescribe. R.S.O. 1927, c. 222, s. 271.

## PART XV.

### RATES AND RATING BUREAUX.

**299.** In this Part,—

Interpretation.

“Rating bureau” means any association or body incorporated or unincorporated, created or organized for the purpose of fixing or promulgating rates of premium payable upon contracts of insurance in Ontario, or the terms or conditions of such contracts, or for these and other purposes, or which assumes to fix or promulgate such rates, terms or conditions by agreement among the members thereof or otherwise. R.S.O. 1927, c. 222, s. 272. “Rating Bureau.”

**300.**—(1) Every rating bureau shall, forthwith after adoption file in the office of the Superintendent duly certified copies of its constitution, articles of association, and by-laws, and a list of members of such bureaus and their addresses, and thereafter shall file in the office of the Superintendent every amendment, revision or consolidation of its constitution, articles of association, and by-laws, and notice of the admission of new members and the withdrawal of former members, within thirty days after the passing or adoption of such amendment, revision or consolidation, or after the admission or withdrawal of such members. Filing of constitution by-laws, etc., in office of Superintendent.

(2) Every rating bureau and every licensed insurer shall make a return under oath to the Superintendent in such form and at such times as he may require, showing every or any Return of rates.



schedule of rates fixed, made, or charged by them, together with such further or other information concerning such rates as he deems necessary or desirable.

Changes  
in rates.

(3) Every rating bureau and every licensed insurer shall give to the Superintendent at least ten days' notice of any change in the schedules of rates or rules applicable thereto, filed with the Superintendent pursuant to subsection 2, and shall file with the Superintendent amended schedules duly verified under oath showing particulars of all such changes before the effective date thereof.

Penalty for  
deviation  
from filed  
rate.

(4) Any rating bureau or licensed insurer which, having filed its schedules of rates pursuant to this section, fixes, makes or charges any rate or receives any premium which deviates from the schedules of rates fixed and filed with the Superintendent for, and the rules applicable to, any risk or class of risks, shall be guilty of an offence. R.S.O. 1927, c. 222, s. 273.

Preferential  
rates for  
groups of  
persons  
prohibited.

**301.**—(1) No rating bureau and no insurer authorized to transact the business of insurance within Ontario shall fix or make any rate or schedule of rates or charge a rate for automobile insurance to any group of persons by reason of such group being engaged in any trade, calling, profession or occupation, or by reason of membership in any guild, union, society, club or association or by reason of common employment or by reason of common occupancy of the same building or group of buildings or for any other reason which would result in a lower cost to an individual in such group than such individual would have had to pay if insured individually, and every insurer or other person who violates the provisions of this section shall be guilty of an offence.

Exception  
where  
vehicles  
owned  
by same  
person.

(2) Nothing in this section contained shall be deemed to prohibit the fixing or charging of a special rate for the insurance of two or more motor vehicles owned by and registered in the name of the same person. 1935, c. 30, s. 8.

Discrimina-  
tion in rates.

**302.**—(1) No rating bureau and no insurer authorized to transact the business of insurance within Ontario shall fix or make any rate or schedule of rates or charge a rate which discriminates unfairly between risks within Ontario of essentially the same physical hazards in the same territorial classification, or, if such rate be a fire insurance rate, which discriminates unfairly between risks in the application of like charges or credits or which discriminate unfairly between risks of essentially the same physical hazards in the same territorial classification and having substantially the same degree of protection against fire. R.S.O. 1927, c. 222, s. 274.

(2) Notwithstanding anything contained in this Act, this section and section 303 shall not be deemed to be in force until a day to be named by the Lieutenant-Governor by his proclamation. 1931, c. 23, s. 17.

**303.**—(1) The Superintendent may on written complaint by an insurer or an insured that discrimination exists or upon such information filed with him as the Superintendent deems sufficient to justify an investigation, give notice in writing to a rating bureau or insurer, requiring such rating bureau or insurer to file with the Superintendent any schedules of rates or particulars showing how any specific rate is made up and any other information which he deems necessary or desirable.

(2) Such rating bureau or insurer shall, within five days after the receipt of the notice, file with the Superintendent the schedules, particulars and other information required.

(3) The Superintendent may, within thirty days after the receipt of the information required, make an order prohibiting any rate which, in his opinion, contravenes the provisions of section 302 and directing that the discrimination be removed.

(4) The Superintendent shall forthwith deliver to the rating bureau or insurer a copy of such order and reasons therefor and shall cause notice thereof to be published forthwith in the *Ontario Gazette*.

(5) No rating bureau or insurer shall remove such discrimination by increasing the rates on any risk or class of risks affected by such order unless it be made to appear to the satisfaction of the Superintendent that such increase is justifiable.

(6) Any rating bureau, insurer or other person failing to comply with any provision of such order shall be guilty of an offence.

(7) Any order made under this section shall not take effect for a period of ten days after its date and shall be subject to appeal within that time in the manner provided by section 12 and in the event of an appeal the order of the Superintendent shall not take effect pending the disposition of the appeal. R.S.O. 1927, c. 222, s. 275.

(NOTE:—See subsection 2 of section 302.)

**304.**—(1) It shall be the duty of the Superintendent, after due notice and a hearing before him, to order an adjustment of the rates for automobile insurance, whenever it is found by him that any such rates are excessive, inadequate, unfairly discriminatory, or otherwise unreasonable.

Appeal  
from order.

(2) Any order made under this section shall not take effect for a period of ten days after its date, and shall be subject to appeal within that time by any insured, insurer or rating bureau, in the manner provided by section 12 and, in the event of an appeal, the order of the Superintendent shall not take effect pending the disposition of the appeal.

Attorney-  
General to  
be heard.

(3) The Attorney-General shall be served with notice of any such appeal and shall be entitled to be heard by counsel upon the hearing thereof.

Penalty.

(4) Any rating bureau, insurer or other person failing to comply with any provision of such order shall be guilty of an offence. 1930, c. 41, s. 12.

Commence-  
ment of  
section.

(5) This section shall come into force on a day to be named by the Lieutenant-Governor by his proclamation. 1930, c. 41, s. 13 (3).

Superin-  
tendent to  
have access  
to books.

**305.** The Superintendent or any person authorized under his hand and seal of office shall at all times have access to all such books, securities or documents of a rating bureau or insurer as are related to the schedules of rates of the rating bureau or insurer, and any officer or person in charge, possession, custody or control of such books, securities or documents who refuses or neglects to afford such access shall be guilty of an offence. R.S.O. 1927, c. 222, s. 276.

Inquiry by  
Superin-  
tendent.

**306.**—(1) The Superintendent may inquire into any question which an insurer, insured or a rating bureau may bring before him with regard to insurance rates fixed by any rating bureau or charged by an insurer and also with regard to any other question arising out of the relationship or proposed relationship of the parties with reference to the insurance in question.

Report of  
Superin-  
tendent.

(2) The Superintendent shall not make any order pursuant to an inquiry under this section, but the result of such inquiry shall be reported in his annual report. R.S.O. 1927, c. 222, s. 277.

## PART XVI.

### AMALGAMATION, TRANSFER AND REINSURANCE.

Interpreta-  
tion.

**307.** In this Part,—

"Reinsur-  
ance."

"Reinsurance" means an agreement whereby contracts made in Ontario by a licensed insurer or any class or group thereof are undertaken or reinsured by another insurer either by novation, transfer, assignment or as a result of amalgamation of the insurers. R.S.O. 1927, c. 222, s. 278.



**308.**—(1) Nothing in this Part shall affect contracts of reinsurance of individual risks made by insurers in the ordinary course of business.

(2) In the case of the amalgamation of insurers, if one of the contracting insurers is an insurer not incorporated or organized under the law of Ontario, the Superintendent shall not recommend that the agreement be approved by the Lieutenant-Governor in Council as hereinafter provided until it has been established to his satisfaction that the insurers, party to the agreement, have fully complied with the requirements of the law of the legislative authority under which the insurer was incorporated or organized; provided that a certificate of the supervising insurance official appointed by such legislative authority that such insurer has fully complied with the requirements of the law of the said authority shall be sufficient evidence to the Superintendent of that fact. R.S.O. 1927, c. 222, s. 279.

**309.**—(1) An agreement for reinsurance shall be evidenced by an instrument in writing setting forth in full the terms and conditions of such reinsurance but no such agreement shall be entered into unless and until the permission of the Superintendent has been obtained and the agreement shall not be binding or effective until approved by the Lieutenant-Governor in Council upon the report of the Superintendent. R.S.O. 1927, c. 222, s. 280.

(2) Upon the approval of the Lieutenant-Governor in Council such agreement shall be valid and binding notwithstanding any irregularity in procedure or any failure to comply with the procedural provisions of this Part. 1936, c. 30, s. 12.

**310.** When any such agreement for reinsurance has been entered into, insurers, party thereto, shall within thirty days from the date of execution of the agreement apply to the Lieutenant-Governor in Council to approve the same by petition filed with the Superintendent. R.S.O. 1927, c. 222, s. 281.

**311.**—(1) In the case of life insurance, before any such application is made, notice thereof together with,—

(a) a statement of the nature and terms of the agreement for reinsurance;

(b) an abstract containing the material facts embodied in the agreement under which such reinsurance is proposed to be effected; and

Amalgamation;  
compliance  
with law  
where in-  
corporated.

Agreement  
to be in  
writing.

Irregularity  
not to  
invalidate.

Approval of  
Lieutenant-  
Governor  
in Council.

Notice, etc.,  
to share-  
holders and  
policy-  
holders.

- (c) copies of the actuarial or other reports upon which such agreement is founded including a report by an independent actuary approved by the Superintendent;

shall be served on the shareholders or members and on the holders of all policies in Ontario other than industrial policies of each insurer; provided, however, that the Superintendent may dispense with the service of such documents on the policyholders of the reinsuring insurer.

Service.

(2) Such notice and documents shall be served by being transmitted through the post office directed to the registered or other known address of each such shareholder, member and policyholder and within such period that they may be delivered in the due course of delivery at least thirty days before the day appointed for the hearing of the application.

Service on members of fraternal society.

(3) In the case of fraternal societies party to an agreement for reinsurance, such notice and documents shall be deemed to be served on the members of a fraternal society if published in the official organ or publication, if any, of such society at least thirty days before the day appointed for the hearing of the application.

Inspection of agreement by shareholders and policyholders.

(4) The agreement under which such reinsurance is proposed to be effected shall be open to the inspection of the policyholders and shareholders at the principal offices of the insurers within Ontario for a period of thirty days after the issue of the abstract herein provided for.

Publication of notice.

(5) A copy of such notice shall also be published in the *Ontario Gazette* at least thirty days before the application is made. R.S.O. 1927, c. 222, s. 282.

Retiring allowance for officers of fraternal society.

**312.** In the case of fraternal societies, any such agreement for reinsurance may provide for granting out of the funds of the continuing society to any officer who has been in the service of a society party to such agreement for at least twenty years, and who is more than sixty years of age, and whose services will not be required after such agreement becomes effective, a sum not exceeding the aggregate of his salary or other remuneration for the next preceding three years or, in the alternative, an annual retiring allowance to any such officer during the remaining years of his life not exceeding three-fifths of his average annual salary for the next preceding three years of his service and payable weekly, semi-monthly or otherwise as may be agreed upon. R.S.O. 1927, c. 222, s. 283.

**313.** Upon the filing of the petition the insurers party to the agreement shall deposit with the Superintendent the following documents, that is to say,—  
Documents to be filed with Superintendent.

- (a) a certified copy of the agreement for reinsurance;
- (b) a statement of the nature and terms of reinsurance;
- (c) certified copies of the statements of assets and liabilities of the insurers party to the agreement;
- (d) certified copies of the actuarial or other reports upon which the agreement is founded;
- (e) a declaration under the hands of the president or principal officer and manager or secretary of each insurer that to the best of their knowledge and belief every payment made or to be made to any person whatsoever on account of the said reinsurance is therein fully set forth and that no other payments beyond those set forth have been made or are to be made either in money, policies, bonds, valuable securities or other property by or with the knowledge of any of the parties to the reinsurance;
- (f) evidence of the service and publication of the notices required by section 311, if any;
- (g) such other information and reports as the Superintendent may require. R.S.O. 1927, c. 222, s. 284.

**314.** Upon receipt of the petition, the Superintendent shall fix a day for hearing the application and notice of the hearing shall be given in the *Ontario Gazette* at least ten days before the date fixed for the hearing. Day of hearing. R.S.O. 1927, c. 222, s. 285.

**315.** After hearing the directors, shareholders, members and policyholders and other persons whom he considers entitled to be heard upon the application or giving them an opportunity to be so heard, the Superintendent may recommend that the agreement be approved by the Lieutenant-Governor in Council if he is satisfied that no sufficient objection to the arrangement has been established. Recommendation of Superintendent. R.S.O. 1927, c. 222, s. 286.

**316.** No such agreement shall be recommended if it appears to the Superintendent that, after the consummation of the reinsurance, an impairment or deficiency will exist in the balance sheet of the continuing or reinsuring insurer when its liabilities (including its capital stock, if any) are calculated according to the provisions of this Act. Impairment of assets of combined or continuing insurer. R.S.O. 1927, c. 222, s. 287.



Report by  
Superin-  
tendent  
where  
reinsurance  
advisable.

**317.**—(1) If, in the case of a fraternal society, it appears to the Superintendent from the statement and reports filed with him, or from any examination or inquiry made pursuant to this Act, that, owing to depletion in membership or otherwise, the reinsurance of its contracts would be in the best interests of its members, he shall so advise the society and request that the advisability of entering into an agreement for reinsurance be considered.

Special  
meeting  
may be  
called.

(2) Where, in the opinion of the governing executive authority of the society, a special meeting of the society is desirable for the purpose of considering the request of the Superintendent, the said governing executive authority of the society may call a special meeting of the supreme legislative body of the society upon such notice as the said governing executive authority may deem reasonable, and as the Superintendent may approve, and such meeting so called shall be deemed to have been regularly constituted notwithstanding any provisions contained in the constitution and laws of the society. R.S.O. 1927, c. 222, s. 288.

## SCHEDULE A.

(Section 84).

### INSURERS.

(Section 23).

#### 1. License, original and annual renewal thereof:

(1) Mutual benefit societies.....	\$10.00
(2) Pension fund associations.....	50.00
(3) Fraternal societies:	
(a) If the assets of the society do not exceed \$100,000	25.00
(b) If the assets of the society exceed \$100,000 but do not exceed \$500,000.....	50.00
(c) If the assets of the society exceed \$500,000 but do not exceed \$1,000,00.....	100.00
(d) If the assets of the society exceed \$1,000,000.....	150.00
(4) Reciprocal or inter-insurance exchanges.....	100.00
(5) Mutual and cash-mutual fire insurance corporations filing annual statements pursuant to section 73 (1) of <i>The Insurance Act</i> :	
(a) Where the gross amount at risk does not exceed \$1,000,000.....	25.00
(b) Where the gross amount at risk exceeds \$1,000,000 but does not exceed \$5,000,000.....	50.00
(c) Where the gross amount at risk exceeds \$5,000,000 but does not exceed \$10,000,000.....	75.00

(d) Where the gross amount at risk exceeds \$10,000,000 but does not exceed \$20,000,000.....	\$100.00
(e) Where the gross amount at risk exceeds \$20,000,000 but does not exceed \$30,000,000.....	150.00
(f) Where the gross amount at risk exceeds \$30,000,000 but does not exceed \$40,000,000.....	200.00
(g) Where the gross amount at risk exceeds \$40,000,000 but does not exceed \$50,000,000.....	250.00
(h) Where the gross amount at risk exceeds \$50,000,000.....	300.00

NOTE.—“Gross Amount at risk” means gross amount at risk in Ontario as at the 31st December next preceding the application for license or renewal thereof.

(6) The Non-Marine Underwriters Members of Lloyd's, London.....	300.00
(7) Insurers authorized to transact live stock insurance exclusively.....	50.00
(8) Insurers undertaking reinsurance exclusively.....	50.00
(9) Insurers not included within sub-items (1) to (8) inclusive:	
(a) Where the assets of the insurers do not exceed \$500,000.....	150.00
(b) Where the assets of the insurers exceed \$500,000 but do not exceed \$1,000,000.....	175.00
(c) Where the assets of the insurers exceed \$1,000,000 but do not exceed \$5,000,000.....	200.00
(d) Where the assets of the insurers exceed \$5,000,000 but do not exceed \$10,000,000.....	250.00
(e) Where the assets of the insurers exceed \$10,000,000.....	300.00

NOTE.—The assets of the insurer as used in this schedule shall mean if the head office of the insurer is in Canada, the total gross assets of the insurer wherever situate, as exhibited by the balance sheet of the insurer at the end of the last preceding accounting period of the insurer, and as issued to the public in Canada, or, if the head office of the insurer is not in Canada, the equivalent in Canadian currency at par of exchange of the total assets of the insurer exhibited by the head office balance sheet in the currency of the country where the head office of the insurer is situate.

2. Renewal of license of insurers which have discontinued undertaking or renewing insurance contracts in the Province except mutual benefit societies and insurers renewing life insurance policies.....	10.00
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3. Examining and passing upon applications for initial license (section 23):

(1) Mutual benefit societies.....	10.00
(2) All others.....	25.00

4. Amendment of license.....	10.00
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5. Order-in-Council withdrawing or transferring deposit (sections 44 and 49).....	25.00
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6. Substitution of securities on deposit (except matured securities) calculated on the par value of securities withdrawn (section 42):

Under \$10,000 .....	\$10.00
\$10,000 and under \$25,000 .....	20.00
\$25,000 and over .....	25.00
7. Filing annual statements (section 73) .....	5.00
8. Extension of time not exceeding seven days or any renewal thereof not exceeding seven days, for filing annual statement, applications for renewal of license, or any other document or information required under the authority of this Act, provided that the Superintendent may grant relief from the payment of this fee in any case in which he thinks for reasons appearing to him to be sufficient, that it should not be imposed .....	10.00
9. License, original and annual renewal thereof, to issue contracts of insurance through an underwriters agency, term to expire on the 30th of June in each year (section 79) .....	100.00
10. Order-in-Council authorizing bonds for Court purposes (section 19) .....	100.00
11. Order-in-Council authorizing society to hold land (section 76) .....	10.00

#### AGENTS, BROKERS AND ADJUSTERS

(Sections 281, 282, 284 and 288).

12. Licenses for life insurance or life and accident insurance or life and accident and sickness insurance; original or renewal thereof .....	5.00
13. Licenses for any class of insurance other than life insurance; original or annual renewal thereof:	
(i) where a licensee carries on business in any municipality having a population in excess of 50,000 according to the last municipal enumeration by the assessors, or is a resident outside the Province .....	25.00
(ii) where a licensee carries on business in any municipality having a population of 25,000 and not exceeding 50,000 according to the last municipal enumeration by the assessors .....	15.00
(iii) where a licensee carries on business in any municipality having a population of 10,000 and not exceeding 25,000 according to the last municipal enumeration by the assessors .....	10.00
(iv) where a licensee carries on business elsewhere in the Province, or where a license is expressly limited by accident and sickness insurance only .....	5.00

provided that the Essex Border Municipalities, the City of Kitchener and the Town of Waterloo, and the Cities of Port Arthur and Fort William, shall respectively be deemed one municipality for the purpose of this clause.

14. All applications for renewal of agents' licenses shall be filed on or before the 31st day of October in each year, and, where any such application is filed after that date, the applicant shall pay a further fee of \$1.00 for each month or fraction thereof during which the filing of the application is in default.

15. Licenses for insurance brokers, original or annual renewal thereof .....	25.00
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16. Licenses for special insurance brokers for business with unlicensed insurers, original or renewal thereof.....	\$25.00
17. Licenses for insurance adjusters, original or renewal thereof	10.00
18. License under subsection 17 of section 281 in the name of a transportation company authorizing its ticket agent to act as agents for railway accident insurance, live stock insurance or baggage insurance, original or renewal thereof.....	10.00

## MISCELLANEOUS.

19. Certificate of Superintendent.....	1.00
20. Copies of or extracts from documents filed with or issued by the Superintendent, per folio of 100 words.....	.10
21. Certified copy of license.....	2.00

Where the fee payable for any license under sections 23 and 79 exceeds \$15.00 the fee for a period of six months or under shall be one-half of the fee payable for the full term.

Order-in-Council, 1st June, 1937.

## SCHEDULE B.

## PREMIUM NOTE.

(Section 112).

(Place)

(Date)

In consideration of insurance granted under Policy No.....  
I hereby promise to pay the.....Company  
at.....(place of payment) the sum of.....dollars, as follows:  
on.....day of.....19 , in full of cash payment,.....dollars

—or—

on.....day of.....19 , 1st instalment of cash payment.....dollars;  
on.....day of.....19 , 2nd instalment of cash payment.....dollars;  
on.....day of.....19 , 3rd instalment of cash payment.....dollars

—and—

upon notice such further sums not exceeding, in the aggregate, the face amount of this note as may be lawfully assessed hereon by the directors of the said Company pursuant to the provisions of *The Insurance Act*.

Any action which may be brought or commenced in a Division Court in respect or on account of this note, or any sum to be assessed thereon, may be brought and commenced against the maker hereof in the Division Court for the division wherein the head office or any agency of the insurer is located.

\$.....

.....  
Signature of Insured.

.....  
Post Office Address.

## SCHEDULE C.

*(Section 270).*

No. ....

Term of license ..... to .....

DEPARTMENT OF INSURANCE  
ONTARIO.

## RECIPROCAL INSURANCE LICENSE.

This is to certify that.....  
being an exchange within the meaning of *The Insurance Act*, has complied  
with the requirements of the said Act; and the subscribers of the said  
exchange are hereby licensed and authorized for and during the term  
beginning on the .....day of....., 19..., and ending  
on the.....day of....., 19..., to exchange reciprocal  
contracts of indemnity or inter-insurance (*here state class of insurance*).

Superintendent of Insurance.

R.S.O. 1927, c. 222, Sched. C.